

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

THERESA LOMAS,

Plaintiffs,

v.

Case No. 6:22-cv-00679-PGB-DCI
LEAD CASE

HEALTH INSURANCE ASSOCIATES
LLC,

Defendants.

ROBIN TAYLOR,

Plaintiffs,

v.

Case No. 6:22-cv-01564-PGB-DAB

HEALTH INSURANCE ASSOCIATES
LLC,

Defendants.

**PLAINTIFFS AND CLASS COUNSEL'S MOTION
FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT
AND INCORPORATED MEMORANDUM IN SUPPORT**

I. INTRODUCTION

Plaintiffs and Defendant Health Insurance Associates LLC reached a class action settlement agreement (“Settlement Agreement” or “Agreement”)¹ that establishes a non-reversionary Settlement Sum in the amount of \$990,000 for the benefit of the Class. Defendant has also agreed, as a result of this Action, to institute enhanced policies and procedures to ensure compliance with the Telephone Consumer Protection Act. This meaningful remedial relief is itself valuable.

This is an excellent result. If approved, the settlement will bring an end to what has otherwise been, and likely would continue to be, hard-fought litigation centered on unsettled factual and legal questions.

On March 20, 2023, the Court preliminarily approved the settlement. ECF 30. Accordingly, Plaintiffs and Class Counsel hereby move for final approval of the settlement for the reasons set forth in this memorandum and in the papers previously submitted in support of approval. Specifically, Plaintiffs and Class Counsel respectfully request that the Court: (1) grant Final Approval to the settlement; (2) certify for settlement purposes the Class, pursuant to Rule 23(b)(3) and (e) of the Federal Rules of Civil Procedure; (3) appoint Plaintiffs as class representatives; (4) appoint Avi R. Kaufman of Kaufman P.A. as Class Counsel; and (5) enter Judgment dismissing the action with prejudice.²

¹ The Settlement Agreement can be found at ECF 30-1. All capitalized terms used herein have the same definitions as those defined in the Agreement.

² A proposed order is attached as Exhibit 1.

II. BACKGROUND

On April 7, 2022, Plaintiff Lomas filed the Complaint against Defendant in this action asserting claims under the TCPA's prerecorded voice call provision (ECF 1). On May 23, 2022, Defendant answered the Complaint denying all liability (ECF 13). The parties then participated in a Rule 26 conference and prepared a joint scheduling report and discovery plan (ECF 18).

Thereafter, the Parties engaged in written discovery involving a set of written discovery to Defendant, a set of discovery requests to Plaintiff, meet and confers through which the parties were able to resolve their discovery disputes without the need for motion practice, Plaintiff's subpoenas to Defendant's third-party vendors involved in telemarketing, and Plaintiff's review of more than ten thousand pages of electronic documents relating to Defendant's calling practices and defenses. Declaration of Avi Kaufman, attached as Exhibit 2, ("Kaufman Decl.") at ¶ 5.

On August 30, 2022, Plaintiff Taylor filed her Complaint against Defendant asserting claims under the TCPA's prerecorded voice call provision and National Do Not Call Registry provisions (Case No. 6:22-cv-01564, ECF 1). On October 12, 2022, Defendant answered the Complaint denying all liability (Case No. 6:22-cv-01564, ECF 10). After the parties met and conferred, on November 21, 2022, Defendant filed an unopposed motion to consolidate the Taylor and Lomas cases. The cases were consolidated the next day.

Plaintiffs engaged in extensive expert analysis of the call records at issue. This same analysis was then utilized at and following the mediation to assist in negotiations and inform the mediator.

On February 6, 2023, the Parties engaged in a full-day, mediation with Daniel Methe of Matrix Mediation that involved, among other things, the exchange of information concerning the Defendant's financial condition. *Id.* at ¶ 8. The Parties engaged in further negotiations ultimately reaching an agreement in principle as to a class wide resolution, culminating in the Settlement Agreement. *Id.*

The Parties recognize and acknowledge the expense and length of continued proceedings that would be necessary to prosecute the litigation against Defendant through trial and potential appeals. Kaufman Decl. ¶ 9. Plaintiffs' counsel has considered the strength of Defendant's defenses, Defendant's consistent denials of liability, difficulties in obtaining class certification and proving vicarious liability, the uncertain outcome and risk of the litigation especially in complex actions such as this one, the inherent delays in such litigation, the risk that a change in the law, including a ruling by this Court concerning the constitutionality of the TCPA, could nullify Plaintiffs' claims, and, in particular, the risk that the case could be litigated to judgment only for the class to recover nothing as a result of Defendant's inability to pay. *Id.*; see *Creasy v. Charter Communs., Inc.*, 2020 U.S. Dist. LEXIS 177798 (E.D. La. Sep. 28, 2020) (finding that TCPA claims based on calls preceding the Supreme Court's ruling in *Barr v. Am. Assn. of Political Consultants, Inc.*, 140 S. Ct. 2335, 591 U.S. ___, (July 6, 2020), are not actionable because the TCPA was unconstitutional until a 2015 amendment was severed in *Barr*). Plaintiffs' counsel believes that the proposed settlement confers substantial and immediate benefits upon the Class whereas continued and protracted litigation, even if successful, might ultimately deliver none. *Id.* Based on their evaluation of all these factors, Plaintiffs

and Plaintiffs' counsel have determined that the settlement is in the best interests of Plaintiffs and the Class. *Id.*

III. IMPLEMENTATION OF THE PROPOSED SETTLEMENT

The Court entered its Order Granting Preliminary Approval of the Settlement on March 20, 2022. ECF 30. Both before and after that date, the Parties have worked diligently with each other and the Claims Administrator to effectuate the terms of the Settlement Agreement. Declaration of Brian Devery, Settlement Administrator, attached as Exhibit 3.

Specifically, on March 24, 2023, in accordance with the Class Action Fairness Act of 2005, 28 U.S.C. § 1715 (“CAFA”), the Settlement Administrator sent the CAFA Notice to the United States Attorney General and all State Attorneys General. Settlement Administrator Decl. at ¶ 2.

The parties provided A.B. Data with electronic data files containing 50,381 unique Class Member phone numbers (the “Class List”). A.B. Data electronically processed the data through credit-bureau and/or other public-source databases to identify mailing addresses for potential Settlement Class Members on the Class List. A.B. Data then processed the names and mailing addresses through the National Change of Address Database to update any address changes on file with the United States Postal Service. This process resulted in the identification of 49,571 Settlement Class Members with a mailing address or email address. *Id.* at ¶ 4.

On April 10, 2023, A.B. Data initiated the email and mail notice program. *Id.* at ¶¶ 5-9. Individual notice was successfully sent by mail and/or email to 49,267 of

the 50,381 unique Class Member phone numbers, accounting for approximately 97.7% of the Class. *Id.* at ¶ 10.

On April 10, 2023, A.B. Data launched the class settlement website and the toll-free settlement information hotline. *Id.* at ¶¶ 11, 12. Since that time, the website has had 10,117 visits, and the toll-free settlement information hotline has received and/or returned a total of 660 calls. *Id.* at ¶¶ 11, 12.

In response to these robust notice efforts, 4,702 Class Members have submitted claims, no Class Members have opted out, and no Class Members have filed or otherwise submitted objections regarding the Settlement. *Id.* at ¶¶ 13-14. Since the claim filing deadline has not yet passed, it is expected that additional claims will be filed by members of the Class. *Id.* at ¶ 13. Based on the claims submitted to date, the claim rate is 9%. *Id.* If the Court awards the requested attorneys' fees and expenses, the anticipated per Approved Claim payment is estimated to be more than \$120. *See id.* at ¶¶ 13, 16.

IV. FINAL APPROVAL OF THE SETTLEMENT IS APPROPRIATE

Court approval is required for settlement of a class action. Fed. R. Civ. P. 23(e). The federal courts have long recognized a strong policy and presumption in favor of class settlements. The Rule 23(e) analysis should be “informed by the strong judicial policy favoring settlements as well as the realization that compromise is the essence of settlement.” *In re Chicken Antitrust Litig. Am. Poultry*, 669 F.2d 228, 238 (5th Cir. Unit B 1982). In evaluating a proposed class settlement, the Court “will not substitute its business judgment for that of the parties; ‘the only question . . . is whether the settlement, taken as a whole, is so unfair on its face as to preclude judicial approval.’” *Rankin v.*

Rots, No. 02-CV-71045, 2006 U.S. Dist. LEXIS 45706, at *9 (E.D. Mich. June 28, 2006). Class settlements minimize the litigation expenses of the parties and reduce the strain that litigation imposes upon already scarce judicial resources. Therefore, “federal courts naturally favor the settlement of class action litigation.” *Isby v. Bayh*, 75 F.3d 1191, 1196 (7th Cir. 1996). The settlement here is more than sufficient under Rule 23(e) and final approval is clearly warranted.

1. Notice was the Best Practicable and was Reasonably Calculated to Inform the Settlement Class of its Rights

“Rule 23(e)(1)(B) requires the court to direct notice in a reasonable manner to all class members who would be bound by a proposed settlement, voluntary dismissal, or compromise regardless of whether the class was certified under Rule 23(b)(1), (b)(2), or (b)(3).” Manual for Compl. Lit. § 21.312 (internal quotation marks omitted). 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). To satisfy this standard, “[n]ot only must the substantive claims be adequately described but the notice must also contain information reasonably necessary to make a decision to remain a class member and be bound by the final judgment or opt-out of the action.” *Twigg v. Sears, Roebuck & Co.*, 153 F.3d 1222, 1227 (11th Cir. 1998) (internal quotation marks omitted); *see also* Manual for Compl. Lit. § 21.312 (listing relevant information).

The Notice Plan satisfies these criteria. As recited in the Settlement Agreement and above, the Notice Plan informed Class Members of the substantive terms of the

settlement. It also advised Class Members of their options for remaining part of the Class, for objecting to the settlement, Class Counsel's attorneys' fee application, or for opting-out of the settlement, and how to obtain additional information about the settlement. The Notice Plan was designed to directly reach a high percentage of Settlement Class Members. Specifically, the individual notice portion of the Notice Plan reached more than 97% of the members of the Settlement Class, and the reach was further enhanced by the class settlement website, and the hotline. Settlement Administrator Declaration at ¶ 10.

Such a percentage far exceeds established due process requirements for class notice. *See* Federal Judicial Center, Judges' Class Action Notice and Claims Process Checklist and Plain Language Guide (2010), available at <https://goo.gl/KTo1gB> (instructing that notice should have an effective "reach" to its target audience of 70-95%) (last visited June 7, 2023); *see also* *Swift v. Direct Buy, Inc.*, No. 2:11-cv-401-TLS, 2013 WL 5770633, at *3 (N.D. Ind. Oct. 24, 2013) ("The Federal Judicial Center's checklist on class notice instructs that class notice should strive to reach between 70% and 95% of the class."). Therefore, the Court should approve the Notice Plan and the form and content of the Notices.

The success of the Notice Plan is evident in the 9% claim rate, which exceeds the claims rate in many cases. *See Poertner v. Gillette Co.*, 618 F. App'x 624, 626 (11th Cir. 2015) (approving settlement class when less than 1% of class members filed claims); *Braynen v. Nationstar Mortg., LLC*, No. 14-CV-20726-GOODMAN, 2015 U.S. Dist. LEXIS 151744, at *48-50 (S.D. Fla. Nov. 9, 2015) ("The question for the Court at the Final Fairness Hearing stage is whether the settlement provided to the class is 'fair,

reasonable, and adequate,’ not whether the class decides to actually take advantage of the opportunity provided.”) (internal citations omitted).

2. The Settlement Should Be Approved as Fair, Reasonable, and Adequate

In deciding whether to approve the settlement, the Court will analyze whether it is “fair, adequate, reasonable, and not the product of collusion.” *Leverso v. Southtrust Bank*, 18 F.3d 1527, 1530 (11th Cir. 1994); *see also Bennett v. Behring Corp.*, 737 F.2d 982, 986 (11th Cir. 1984). A settlement is fair, reasonable, and adequate when “the interests of the class as a whole are better served if the litigation is resolved by the settlement rather than pursued.” *In re Lorazepam & Clorazepate Antitrust Litig.*, MDL No. 1290, 2003 WL 22037741, at *2 (D.D.C. June 16, 2003) (quoting Manual for Complex Litigation (Third) § 30.42 (1995)). Importantly, the Court is “not called upon to determine whether the settlement reached by the parties is the best possible deal, nor whether class members will receive as much from a settlement as they might have recovered from victory at trial.” *In re Mexico Money Transfer Litig.*, 164 F. Supp. 2d 1002, 1014 (N.D. Ill. 2000) (citations omitted).

The Eleventh Circuit has identified six factors to be considered in analyzing the fairness, reasonableness, and adequacy of a class settlement under Rule 23(e):

- (1) the existence of fraud or collusion behind the settlement;
- (2) the complexity, expense, and likely duration of the litigation;
- (3) the stage of the proceedings and the amount of discovery completed;
- (4) the probability of the plaintiffs’ success on the merits;

- (5) the range of possible recovery; and
- (6) the opinions of the class counsel, class representatives, and the substance and amount of opposition to the settlement.

Leverso, 18 F.3d at 1530 n.6; *see also Bennett*, 737 F.2d at 986. The analysis of these factors set forth below shows this settlement to be eminently fair, reasonable, and adequate.

i. There Was No Fraud or Collusion

The contested nature of the proceedings in this action demonstrates the absence of fraud or collusion behind the settlement. *See, e.g., In re Sunbeam Sec. Litig.*, 176 F. Supp. 2d 1323, 1329 n.3 (S.D. Fla. 2001). “Where the parties have negotiated at arm’s length, the Court should find that the settlement is not the product of collusion.” *Hanley v. Tampa Bay Sports & Entm’t Ltd. Liab. Co.*, No. 8:19-CV-00550-CEH-CPT, 2020 U.S. Dist. LEXIS 89175, at *10 (M.D. Fla. Apr. 23, 2020) (internal citation omitted).

With the benefit of discovery, the Parties engaged in intensive arm’s-length negotiations with the assistance of Daniel Methe to resolve the case with a view toward achieving substantial benefits for the Settlement Class as a whole, while avoiding the cost, delay, and uncertainty of further litigation, trial, and appellate practice. *See Kaufman Decl.* ¶¶ 5, 7-8. Plaintiffs and the Class were represented by experienced counsel throughout the negotiations and benefited from mediating with a retired district court judge mediator. “The assistance of an experienced mediator in the settlement process confirms that [a] settlement is non-collusive.” *Satchell v. Fed. Express Corp.*, No. C03-2659 SI, 2007 U.S. Dist. LEXIS 99066, at *17 (N.D. Cal. Apr. 13,

2007).

ii. The Settlement Will Avert Years of Complex Expensive Litigation

The claims and defenses are complex; recovery by any means other than settlement would require additional years of litigation. *See United States v. Glens Falls Newspapers, Inc.*, 160 F. 3d 853, 856 (2d Cir. 1998) (“a principal function of a trial judge is to foster an atmosphere of open discussion among the parties’ attorneys and representatives so that litigation may be settled promptly and fairly so as to avoid the uncertainty, expense and delay inherent in a trial”).

In contrast, the settlement provides immediate and substantial monetary benefits and remedial relief to the Class. As stated in *In re Shell Oil Refinery*, 155 F.R.D. 552 (E.D. La. 1993):

The 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. In this respect, “[i]t has been held proper to take the bird in the hand instead of a prospective flock in the bush.”

Id. at 560 (alterations in original). Particularly because the “demand for time on the existing judicial system must be evaluated in determining the reasonableness of the settlement,” *Ressler v. Jacobson*, 822 F. Supp. 1551, 1554 (M.D. Fla. 1992) (citation omitted), there can be no doubt about the adequacy of the present settlement.

iii. The Factual Record Is Sufficiently Developed to Enable Class Counsel to Make a Reasoned Judgment

Courts also consider “the degree of case development that class counsel have accomplished prior to settlement” to ensure that “counsel had an adequate

appreciation of the merits of the case before negotiating.” *In re General Motors Corp. Pick-up Truck Fuel Tank Prods. Liab. Litig.*, 55 F.3d 768, 813 (3d Cir. 1995). At the same time, “[t]he law is clear that early settlements are to be encouraged, and accordingly, only some reasonable amount of discovery should be required to make these determinations.” *Ressler*, 822 F. Supp. at 1555.

Class Counsel negotiated the settlement with the benefit of extensive discovery, including written discovery involving a set of written discovery to Defendant, a set of discovery requests to Plaintiff Lomas, ESI discovery, meet and confers through which the parties were able to resolve their discovery disputes without the need for motion practice, Plaintiff’s subpoenas to Defendant’s third party vendors involved in telemarketing, and Plaintiff’s review of more than ten thousand pages of electronic documents relating to Defendant’s calling practices and defenses. Kaufman Decl. ¶ 5.

Additionally, Plaintiffs engaged in extensive expert analysis of the call records at issue. This same analysis was then utilized at and following the mediation to assist in negotiations and inform the mediator. *Id.* at ¶ 7. Plaintiffs also spent considerable time researching and navigating Defendant’s defenses.

As such, Class Counsel’s analysis and understanding of the legal obstacles positioned them to evaluate the strengths and weaknesses of Plaintiffs’ claims and Defendant’s defenses, as well as the range and amount of damages that were potentially recoverable if the litigation proceeded to judgment on a class-wide basis and Defendant’s financial condition. *Id.* ¶¶ 5-9.

iv. Plaintiffs and the Class Still Faced Significant Obstacles to Prevailing

The “likelihood and extent of any recovery from the defendants absent . . . settlement” is another important factor in assessing the reasonableness of a settlement. *In re Domestic Air Transp. Antitrust Litig.*, 148 F.R.D. 297, 314 (N.D. Ga. 1993). Class Counsel believes that Plaintiffs had a strong case against Defendant. Even so, Class Counsel recognize and acknowledge the expense and length of continued proceedings that would be necessary to prosecute the litigation against Defendant through trial and potential appeals and are mindful that Defendant advanced significant defenses that would have had to have been overcome in the absence of the Settlement, including at class certification and, in particular, that the case could be litigated to judgment only for the class to recover nothing as a result of Defendant’s inability to pay. Kaufman Decl. ¶ 9. Moreover, the settlement is fair, reasonable, and adequate given the risk that, even if a class was certified, Plaintiffs and the class would not prevail on the merits of their claims, warranting final approval as class certification is also far from automatic in TCPA cases. *Compare Tomeo v. CitiGroup, Inc.*, No. 13 C 4046, 2018 WL 4627386, at *1 (N.D. Ill. Sept. 27, 2018) (denying class certification in TCPA case after nearly five years of hard-fought discovery and litigation), *Jamison v. First Credit Servs.*, 290 F.R.D. 92, 107 (N.D. Ill. 2013) (finding issues of consent to predominate in TCPA action), and *Balschmitter v. TD Auto Fin. LLC*, 303 F.R.D. 508, 527 (E.D. Wis. 2014) (same) with *Saf-T-Gard Int’l v. Vanguard Energy Servs.*,

No. 12-3671, 2012 WL 6106714 (N.D. Ill. Dec. 6, 2012) (certifying a class in a TCPA action and finding no evidence supported the view that issues of consent would be individualized) and *Birchmeier v. Caribbean Cruise Line, Inc.*, 302 F.R.D. 240, 253 (N.D. Ill. 2014) (same).

Given the myriad risks attending these claims, as well as the certainty of substantial delay and expense from ongoing litigation, the settlement providing immediate cash benefit of \$990,000 to settlement Class Members and providing meaningful remedial relief, with a total estimated value to the settlement Class and the society of approximately \$1,500,000, represents a fair compromise. *See, e.g., Haynes v. Shoney's*, No. 89-30093-RV, 1993 U.S. Dist. LEXIS 749, at *16-17 (N.D. Fla. Jan. 25, 1993) (“The risks for all parties should this case go to trial would be substantial. It is possible that trial on the merits would result in ... no relief for the class members. ... Based on ... the factual and legal obstacles facing both sides should this matter continue to trial, I am convinced that the settlement ... is a fair and reasonable compromise.”); *Morales v. Stevco, Inc.*, No. 1:09-cv-00704 AWI JLT, 2011 U.S. Dist. LEXIS 130604, at *27 (E.D. Cal. Nov. 10, 2011) (immediate recovery for the class is “preferable to lengthy and expensive litigation with uncertain results”) (internal citation omitted).

v. The Benefits Provided by the Settlement Are Fair, Reasonable, and Adequate Compared to the Range of Possible Recovery

In determining whether a settlement is fair given the potential range of recovery, the Court should be guided by “the fact that a proposed settlement amounts to only a fraction of the potential recovery does not mean the settlement is unfair or inadequate.” *Behrens v. Wometco Enters., Inc.*, 118 F.R.D. 534, 542 (S.D. Fla. 1988), *aff’d*, 899 F.2d 21 (11th Cir. 1990). Indeed, “[a] settlement can be satisfying even if it amounts to a hundredth or even a thousandth of a single percent of the potential recovery.” *Id.*

As discussed above, Class Counsel was well-positioned to evaluate the strengths and weaknesses of Plaintiffs’ claims, particularly in light of the risk of change in law, as well as the appropriate basis upon which to settle them. Kaufman Decl. ¶¶ 4-9. Pursuant to the TCPA, each injured Class Member could have received \$500 for each violation upon a successful verdict at trial, but such a result was uncertain and may have required years of litigation, and, even then, may have resulted in no recovery at all given the changes in governing TCPA law, Defendant’s financial condition and the total amount of potential damages arising from calls to Class Members.

Given the significant litigation risks the class faced, the settlement represents a successful result. Rather than facing years of costly and uncertain litigation, the settlement makes available an immediate cash benefit of \$990,000 to settlement Class Members and provides meaningful remedial relief, with a total estimated value to the settlement Class and the society of approximately \$1,500,000. Kaufman Decl.

¶ 12.

To estimate the dollar value of the injunctive relief provided to the Class and society, Plaintiffs have relied on a willingness to pay analysis developed by economists specifically for valuing injunctive relief in TCPA cases, which implies a mean value of \$.2265 per call for each call prevented by the injunctive relief. *See, e.g., Economic Assessment of the Value of Remedial Relief in Connection with Class Action Settlement Agreement (ECF 217-1) in Wright v. eXp Realty, LLC*, No. 6:18-CV-01851-PGB-EJK (M.D. Fla.). In this case, based on the Defendant's calling agent having made more than 500,000 unsolicited telemarketing calls in the one year preceding this filing of this action, assuming that the volume of calling would have remained the same (as opposed to increasing, as it had done in the year prior to the filing of this action), the injunctive relief is anticipated to prevent more than 500,000 calls per year, which equates to a present value of more than \$500,000 for the next five years. Similar analyses have been accepted by courts for valuing injunctions and remedial relief in TCPA settlements. *See id.; Beiswinger v. West Shore Home LLC*, Case No. 3:20-cv-01286-HES-PDB, ECF 36 (M.D. Fla. May 26, 2022) (Schlesinger, J.) (granting final approval to a TCPA class settlement aided by Dr. Haghayeghi's valuation of the remedial relief).

The monetary relief alone is significant and exceeds the range of similar settlements. The amount each Claimant is expected to receive exceeds \$120 – which is fair and adequate, and in fact, exceeds the amount received on a per claimant basis in the vast majority of TCPA settlements. *See, e.g., Goldschmidt v. Rack Room Shoes*, No. 18-21220-CIV-WILLIAMS/TORRES, *slip op. (D.E. 86)* (S.D. Fla. Jan.

16, 2020) (approving settlement of TCPA claims providing for \$5 per class member, less attorneys' fees, costs, administration costs, and service award, and a \$10 voucher); *Halperin v. You Fit Health Clubs, LLC*, No. 18-61722-CIV-DIMITROULEAS/SNOW, *slip op. (D.E. 44)* (S.D. Fla. Nov. 1, 2019) (approving settlement of TCPA claims providing for \$9 per class member, less attorneys' fees, costs, administration costs, and service award).

vi. The Opinions of Class Counsel, the Plaintiffs, and Absent Settlement Class Members Favor Approval

The settlement provides an extremely fair and reasonable recovery for the Class given the combined litigation risks, including the strength of Defendant's defenses, including to its vicarious liability, the challenges the challenging and unpredictable path of litigation, Defendant's financial condition, and the changing TCPA law landscape. Class Counsel strongly endorses the settlement given the significant risks in proceeding with litigating this case. Kaufman Decl. ¶ 9. The Court should give "great weight to the recommendations of counsel for the parties, given their considerable experience in this type of litigation." *Warren v. Tampa*, 693 F. Supp. 1051, 1060 (M.D. Fla. 1988); *see also Domestic Air*, 148 F.R.D. at 312-13 ("In determining whether to approve a proposed settlement, the Court is entitled to rely upon the judgment of the parties' experienced counsel. [T]he trial judge, absent fraud, collusion, or the like, should be hesitant to substitute its own judgment for that of counsel.") (citations omitted).

To date, there have been no objections or opt outs to the settlement. Administrator Decl. ¶¶ 14, 15. Even if there were some objections (and there are

none at this time), it is settled that “[a] small number of objectors from a plaintiff class of many thousands is strong evidence of a settlement’s fairness and reasonableness.” *Association for Disabled Americans v. Amoco Oil Co.*, 211 F.R.D. 457, 467 (S.D. Fla. 2002).

3. The Court Should Certify the Class

This Court provisionally certified the Class for settlement purposes only. ECF 30. For all the reasons set forth in Plaintiffs’ preliminary approval briefing (ECF 29), incorporated by reference herein, and the Preliminary Approval Order, the Court should finally certify the Class as it continues to meet all the requirements of Rule 23(a) and at least one of the requirements of Rule 23(b).

Based on the foregoing, the Settlement Agreement is fair, reasonable, and adequate.

V. CONCLUSION

Plaintiffs and Class Counsel respectfully request that this Court: (1) grant Final Approval to the Settlement; (2) certify for settlement purposes the Class, pursuant to Rule 23(b)(3) and (e) of the Federal Rules of Civil Procedure; (3) appoint Plaintiffs as class representatives; (4) appoint Avi R. Kaufman of Kaufman P.A. as Class Counsel; and (5) enter Judgment dismissing the action with prejudice.

Local Rule 3.01(g) Certification

I certify that on June 7, 2023 counsel for Plaintiffs met and conferred with counsel for Defendant, and Defendant does not oppose final approval of the class action settlement.

Dated: June 8, 2023

Respectfully submitted,

/s/ Avi Kaufman

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Class Counsel

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 8, 2023, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF, and it is being served this day on all counsel of record via transmission of Notice of Electronic Filing generated by CM/ECF.

/s/ Avi R. Kaufman

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

THERESA LOMAS,

Plaintiffs,

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HEALTH INSURANCE ASSOCIATES
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Defendants.

**[PROPOSED] ORDER GRANTING FINAL APPROVAL TO
CLASS ACTION SETTLEMENT AND FINAL JUDGMENT**

This Court has reviewed the motion for final approval of class settlement filed in this Litigation, including the Class Action Settlement Agreement (“Settlement Agreement”).¹ Having read all of the papers filed in connection therewith, as well

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

as all of the evidence and argument submitted with respect to the proposed Settlement, the Court finds that the proposed Settlement is fair, reasonable, and adequate. The Court therefore FINDS AS FOLLOWS:

1. The Court has personal jurisdiction over all Class Members, and the Court has subject-matter jurisdiction to approve the Agreement, including all exhibits thereto.

2. The Notice and the Notice Plan implemented pursuant to the Agreement (1) constitute the best practicable notice under the circumstances; (2) constitute notice that is reasonably calculated, under the circumstances, to apprise members of the Class of the pendency of the litigation, their right to object to or exclude themselves from the proposed settlement, and to appear at the Final Approval Hearing; (3) are reasonable and constitute due, adequate, and sufficient notice to all Persons entitled to receive notice; and (4) meet all applicable requirements of the Federal Rules of Civil Procedure, the Due Process Clause of the United States Constitution, and the rules of the Court.

3. Pursuant to Fed. R. Civ. P. 23, and for purposes of this settlement only:
- a. The Class consists of all users or subscribers to telephone numbers that received two or more telemarketing calls in a 12-month period from Leads Mogul LLC that were forwarded to Health Insurance Associates, LLC more than 30 days after their telephone numbers were registered with the National Do Not Call Registry. Excluded from the Class are (1) the Judges and Magistrate Judges presiding over the action and

members of their immediate families; (2) the Defendant, its parent companies, successors, predecessors, and any entities in which the Defendant or its parents have a controlling interest, and Defendant's current and former officers, directors, agents, trustees, representatives, employees, principals, partners, joint ventures, and entities controlled by Defendant; (3) persons who properly execute and timely file a request for exclusion from the Class; and (4) the legal representatives, successors, or assigns of any such excluded person(s).

- b. The Class is ascertainable and so numerous that joinder of all members is impracticable. The Class consists of thousands of class members and the Class Members have been determined by objective means from Defendant's records.
- c. There are questions of law or fact common to the Class which predominate over any questions affecting only individual Class Members.
- d. The claims of the proposed class representatives are typical of the claims of the Class. The proposed class representatives and each member of the proposed Class are alleged to have suffered the same injury caused by the same course of conduct.
- e. Plaintiffs have fairly and adequately represented and protected the interests of the Class. Plaintiffs are members of the proposed Class. Neither Plaintiffs nor Class Counsel have any conflicts of interest with

the other class members, and Class Counsel have demonstrated that they have adequately represented the Class.

- f. A class action is superior to other available methods for the fair and efficient adjudication of the controversy as the Settlement substantially benefits both the litigants and the Court, and there are few manageability issues as settlement is proposed rather than a further trial.

4. Pursuant to Fed. R. Civ. P. 23(e), the Settlement Agreement is, in all respects, fair, reasonable, and adequate, and is in the best interests of all Class Members, taking into account the following factors: (1) the existence of fraud or collusion behind the settlement; (2) the complexity, expense, and likely duration of the litigation; (3) the stage of the proceedings and the amount of discovery completed; (4) the probability of the plaintiffs' success on the merits; (5) the range of possible recovery; and (6) the opinions of the class counsel, class representatives, and the substance and amount of opposition to the settlement.

5. The plan for distribution of the Settlement Sum is fair and equitable. The Settlement Administrator shall perform the distribution to Class Members following the process set forth in the Settlement Agreement without further order of this Court.

6. Class Members have been given due and adequate notice of the Settlement Agreement.

7. There are ___ objections.

8. There are __ opt-outs.²

9. The Court has held a hearing to consider the fairness, reasonableness, and adequacy of the proposed settlement.

10. Under the Settlement Agreement, Class Counsel is permitted to seek Court approval of attorneys' fees and documented and reasonable expenses and costs. Having considered Class Counsel's Motion for an Award of Attorneys' Fees and Expenses and considering the percentage of the fund, lodestar cross-check, the quality of representation provided and the results obtained, as well as a number of other factors, Class Counsel is awarded attorneys' fees of \$_____, and reimbursement of costs and expenses of \$_____, representing fair and reasonable compensation and reimbursement for Class Counsel's efforts in investigating, litigating, and settling this action.

11. Under the Settlement Agreement, the Settlement Administrator shall be paid exclusively from the Settlement Sum. The Settlement Administration Expenses are \$_____. Those costs are reasonable in light of the costs for, among other things, emailed and mailed notice, claim verification, and distribution of settlement funds to thousands of Class Members.

12. All payments of attorneys' fees and reimbursement of expenses to Class Counsel, and notice expenses in this Action shall be made from the Settlement Sum, and the Released Parties shall have no liability or responsibility for the payment of Class Counsel's attorneys' fees or expenses, the service award, and notice expenses.

² A list of opt outs is included as an exhibit to this Order.

The Released Parties' only and total liability is the Settlement Sum.

13. Accordingly, the Court hereby finally APPROVES the proposed settlement as reflected in the Settlement Agreement, the respective terms of which, including but not limited to the releases, are hereby incorporated by reference as though fully set forth herein.

14. The Court having granted final approval to the Settlement Agreement, it is hereby **ORDERED, ADJUDGED** and **DECREED** as follows:

1. Immediately upon entry of this Final Judgment by the Clerk, this action shall be closed according to the Court's standard practices.

2. The Settlement Agreement is approved as fair, reasonable, and adequate as to, and in the best interests of, Class Members; the Parties and their counsel are directed to implement and consummate the Agreement according to its terms and provisions; and the Agreement is declared to be binding on, and have preclusive effect on all pending and future lawsuits or other proceedings maintained by or on behalf of Representative Plaintiffs and the Releasing Parties.

3. The Parties are hereby directed to implement and consummate the Agreement, including to take all actions required under the terms and provisions of the Settlement Agreement.

4. To the extent permitted by law and without affecting the other provisions of this Final Judgment, this Final Judgment is intended by the Parties and the Court to be *res judicata*, and to prohibit and preclude any prior, concurrent or subsequent litigation brought individually, or in the name of, and/or otherwise on

behalf of the Class Members with respect to any and all claims, rights, demands, actions, causes of action, suits, debts, liens, contracts, liabilities, agreements, costs, expenses or losses arising out of or relating to the claims released under the Settlement Agreement.

5. All persons who are Class Members are bound by this Final Judgment and are enjoined from instituting, maintaining, prosecuting, or enforcing, either directly or indirectly, any claims discharged by the Settlement Agreement.

6. The Court shall retain continuing jurisdiction over this action as to the following matters: (i) enforcement of the terms of the Settlement Agreement; (ii) issues relating to settlement administration; and (iii) enforcement of this Final Approval Order and Judgment, and any order relating to attorneys' fees.

This Action (including all individual claims and Class Member claims asserted therein) is hereby dismissed on the merits and with prejudice, without fees or costs to any Party, except as provided in the Settlement Agreement. No just reason exists for delay in entering this Final Judgment.

DONE AND ORDERED in Orlando, Florida on _____, 2023.

PAUL G. BYRON
UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

THERESA LOMAS,

Plaintiffs,

v.

Case No. 6:22-cv-00679-PGB-DCI
LEAD CASE

HEALTH INSURANCE ASSOCIATES
LLC,

Defendants.

ROBIN TAYLOR,

Plaintiffs,

v.

Case No. 6:22-cv-01564-PGB-DAB

HEALTH INSURANCE
ASSOCIATES LLC,

Defendants.

**DECLARATION OF AVI R. KAUFMAN
IN SUPPORT OF PLAINTIFFS' AND CLASS COUNSEL'S
MOTION FOR FINAL APPROVAL**

Avi R. Kaufman declares as follows:

1. I am the attorney designated as Class Counsel for Plaintiffs under the Settlement Agreement (“Settlement” or “Agreement”) entered into with Defendant

Health Insurance Associates LLC.¹ I submit this declaration in support of Plaintiffs' and Class Counsel's Motion for Final Approval of Class Action Settlement. 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. Plaintiffs and Defendant Health Insurance Associates LLC reached a class action settlement agreement that establishes a non-reversionary Settlement Sum in the amount of \$990,000 for the benefit of the Class. Defendant has also agreed, as a result of this Action, to institute enhanced policies and procedures to ensure compliance with the TCPA. This meaningful remedial relief itself is valuable. This is an excellent result.

3. Plaintiffs and Class Counsel move for final approval.

4. On April 7, 2022, Plaintiff Lomas filed the Complaint against Defendant in this action asserting claims under the TCPA's prerecorded voice call provision (ECF 1). On May 23, 2022, Defendant answered the Complaint denying all liability (ECF 13). The parties then participated in a Rule 26 conference and prepared a joint scheduling report and discovery plan (ECF 18).

5. Thereafter, the Parties engaged in written discovery involving a set of written discovery to Defendant, a set of discovery requests to Plaintiff, meet and confers through which the parties were able to resolve their discovery disputes without the need for motion practice, Plaintiff's subpoenas to Defendant's third

¹ All capitalized defined terms used herein have the same meanings ascribed in the Agreement.

party vendors involved in telemarketing, and Plaintiff's review of more than ten thousand pages of electronic documents relating to Defendant's calling practices and defenses.

6. On August 30, 2022, Plaintiff Taylor filed her Complaint against Defendant asserting claims under the TCPA's prerecorded voice call provision and National Do Not Call Registry provisions (Case No. 6:22-cv-01564, ECF 1). On October 12, 2022, Defendant answered the Complaint denying all liability (Case No. 6:22-cv-01564, ECF 10). After the parties met and conferred, on November 21, 2022, Defendant filed an unopposed motion to consolidate the Taylor and Lomas cases. The cases were consolidated the next day.

7. Plaintiffs engaged in extensive expert analysis of the call records at issue. This same analysis was then utilized at and following the mediation to assist in negotiations and inform the mediator.

8. On February 6, 2023, the Parties engaged in a full-day, mediation with Daniel Methe of Matrix Mediation that involved, among other things, the exchange of information concerning the Defendant's financial condition. The Parties engaged in further negotiations ultimately reaching an agreement in principle as to a class wide resolution, culminating in the Settlement Agreement.

9. The Parties recognize and acknowledge the expense and length of continued proceedings that would be necessary to prosecute the litigation against Defendant through trial and potential appeals. Plaintiffs' counsel has considered the strength of Defendant's defenses, Defendant's consistent denials of liability,

difficulties in obtaining class certification and proving vicarious liability, the uncertain outcome and risk of the litigation especially in complex actions such as this one, the inherent delays in such litigation, the risk that a change in the law, including a ruling by this Court concerning the constitutionality of the TCPA, could nullify Plaintiffs' claims, and, in particular, the risk that the case could be litigated to judgment only for the class to recover nothing as a result of Defendant's inability to pay. Plaintiffs' counsel believes that the proposed settlement confers substantial and immediate benefits upon the Class whereas continued and protracted litigation, even if successful, might ultimately deliver none. Based on their evaluation of all these factors, Plaintiffs and Plaintiffs' counsel have determined that the settlement is in the best interests of Plaintiffs and the Class.

10. The monetary relief on a per settlement Class Member basis and the remedial relief agreed to by Defendant place the Settlement well within the range of approval. Defendant will pay \$990,000 into a common settlement fund to resolve this matter.

11. The monetary relief alone is significant. The per claiming settlement Class Member recovery is expected to be approximately \$120. This amount is greater than the per claim payouts in the vast majority of TCPA class action settlements, including in cases involving direct liability against companies larger than Defendant.

12. Given the significant litigation risks the Class faced, the settlement represents a successful result. Rather than facing years of costly and uncertain

litigation, the Settlement makes available an immediate cash benefit of \$990,000 to settlement Class Members and provides meaningful remedial relief, with a total estimated value to the settlement Class and the society of approximately \$1,500,000.

13. To estimate the dollar value of the injunctive relief provided to the Class and society, Plaintiffs have relied on a willingness to pay analysis developed by economists specifically for valuing injunctive relief in TCPA cases, which implies a mean value of \$.2265 per call for each call prevented by the injunctive relief. *See, e.g.,* Economic Assessment of the Value of Remedial Relief in Connection with Class Action Settlement Agreement (ECF 217-1) in *Wright v. eXp Realty, LLC*, No. 6:18-CV-01851-PGB-EJK (M.D. Fla.). In this case, based on the Defendant's calling agent having made more than 500,000 unsolicited telemarketing calls in the one year preceding this filing of this action, assuming that the volume of calling would have remained the same (as opposed to increasing, as it had done in the year prior to the filing of this action), the injunctive relief is anticipated to prevent more than 500,000 calls per year, which equates to a present value of more than \$500,000 for the next five years. Similar analyses have been accepted by courts for valuing injunctions and remedial relief in TCPA settlements. *See id.; Beiswinger v. West Shore Home LLC*, Case No. 3:20-cv-01286-HES-PDB, ECF 36 (M.D. Fla. May 26, 2022) (Schlesinger, J.) (granting final approval to a TCPA class settlement aided by Dr. Haghayeghi's valuation of the remedial relief).

14. The settlement provides an extremely fair and reasonable recovery for the Settlement Class given the combined litigation risks, including the strength of

Defendant's defenses, the challenging and unpredictable path of litigation, Defendant's financial condition, and the changing TCPA law landscape.

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

Dated: June 8, 2023

/s/ Avi R. Kaufman
Avi R. Kaufman

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA**

THERESA LOMAS,

Plaintiff,

v.

HEALTH INSURANCE ASSOCIATES
LLC,

Defendant.

Case No. 6:22-CV-00679-PGB-DCI

LEAD CASE

ROBIN TAYLOR,

Plaintiff,

v.

HEALTH INSURANCE ASSOCIATES
LLC,

Defendant.

Case No. 6:22-CV-01564-PGB-DAB

DECLARATION OF BRIAN DEVERY
RE: NOTICE PROCEDURES AND ADMINISTRATION

I, Brian Devery, declare as follows:

1. I am a Client Services Director at the class action notice and settlement administration division of A.B. Data, Ltd. (“A.B. Data”), whose Corporate Office is located in Milwaukee, Wisconsin. A.B. Data was appointed as the Settlement Administrator in this matter and is not a party to this action. I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto.

CAFA Notification

2. On March 24, 2023, on behalf of Defendants and in compliance with the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1715, A.B. Data compiled a CD-ROM containing the following documents: Complaint, Long Form Notice, Short Form Notice, Claim Form, Class Action Settlement Agreement, and Motion for Preliminary Approval, accompanied by a cover letter (collectively, the “CAFA Notice Packet”). A copy of the cover letter is attached hereto as Exhibit A.

3. On May 24,2023, on behalf of Defendants and in compliance with the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1715(b), A.B. Data mailed a supplemental CAFA Notice containing a reasonable estimate of Class Members by state which was not available when the previous CAFA Notice was sent. A copy of the cover letter is attached hereto as Exhibit B.

Class List

4. The parties provided A.B. Data with electronic data files containing 50,381 unique Class Member phone numbers (the “Class List”). A.B. Data electronically processed the data through credit-bureau and/or other public-source databases to identify mailing addresses for potential Settlement Class Members on the Class List. A.B. Data then processed the names and mailing addresses through the National Change of Address Database (“NCOA”) to update any address changes on file with the United States Postal Service (“USPS”). This process resulted in the identification of 49,571 Settlement Class Members with a mailing address or email address.

Initial Notice

5. Beginning on April 10, 2023, A.B. Data caused the Postcard Notice to be mailed to the 49,864 Settlement Class Member mailing addresses. A true and correct copy of the Postcard Notice is attached hereto as Exhibit C.

6. AB Data located valid email addresses for 30,748 Settlement Class Members. Beginning on April 10, 2023, A.B. Data caused the Short Form Notice to be sent by email to the 30,748 Settlement Class Member email addresses. A true and correct copy of the Email Notice is attached hereto as Exhibit D.

7. Where a Settlement Class member had both a valid postal address and a valid email address, both Postcard and Email Notices were sent.

Notice Results

8. Throughout the notice period, for all Postcard Notices returned by the USPS as undeliverable as addressed, A.B. Data utilized credit-bureau and/or other public-source databases to find an updated mailing address and have the Postcard Notice remailed. As of the date of this declaration, a total of 654 Settlement Class Member Postcard Notices have been returned as undeliverable, of which updated address information was located for 349 Settlement Class Members who were remailed a Postcard Notice to the updated addresses.

9. Of the 30,748 Settlement class Members for whom a valid email address was obtained, a total of 26,411 emails were delivered. 4,337 emails were dropped or returned as undeliverable resulting in the successful email sending of approximately 85.9%.

10. As a result of the above noticing efforts, individual notice was successfully sent by mail and/or email to 49,267 of the 50,381 unique Class Member phone numbers, accounting for approximately 97.7% of the Class.

Case Website

11. On April 10, 2023, A.B. Data established a website, www.InsuranceTCPASettlement.com, dedicated to this matter to provide information to the Settlement Class Members and to answer frequently asked questions. The website URL was set forth in all Notice formats. Visitors to the website can download copies of the Notice and other case-related documents, including the Complaint, Answer, Notice of Class Action and Proposed Settlement, Class Action Settlement Agreement, Motion for Preliminary Approval, Preliminary Approval Order, Motion for Attorneys' Fees and Costs, and Claim Form. To date, the website has received 10,117 visits. The website also listed a toll-free telephone number Settlement Class Members could use to contact A.B. Data.

Toll-Free Telephone Number

12. On April 10, 2023, A.B. Data established a toll-free telephone number (877) 390-3290 dedicated to answering telephone inquiries from Settlement Class Members. To date, A.B. Data has received and/or returned a total of 660 calls.

Claim Forms

13. The deadline for Settlement Class Members to file claims in this matter is June 9, 2023. To date, A.B. Data has received 4,702 claims which is a claim rate of 9%.

Requests for Exclusion from Class

14. The deadline for Settlement Class Members to request to be excluded from the Settlement Class is June 9, 2023. A.B. Data has received no requests for exclusion.

Objections to the Settlement

15. The deadline for Settlement Class Members to object to the Settlement is June 9, 2023. A.B. Data has not received any objections.

Settlement Administration Costs

16. To date, the settlement administration costs total approximately \$86,000, and the remaining anticipated settlement administration costs total \$20,627.08.

Distribution and Remaining Tasks

17. Provided the Court issues a final approval of the Settlement, and the Effective Date is achieved, A.B. Data will cause the Settlement Fund to be distributed in accordance with the terms of the Settlement Agreement and the directives and Orders of this Court.

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

Executed this 7th day of June 2023.

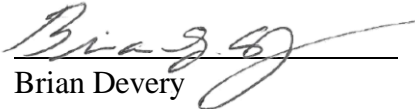

Brian Devery

EXHIBIT A

A.B. DATA, LTD.

Class Action Administration



March 24, 2023

via USPS Priority Mail

**Re: *Lomas, et al. v. Health Insurance Associates LLC*, No. 6:22-cv-00679 (M.D. Fla.)
28 U.S.C. § 1715(b) Notification**

Dear Sir or Madam:

Settlement Administrator A.B. Data, Ltd., on behalf of the Defendant in the above-referenced action (the “Action”), provides the notice as specified in the Class Action Fairness Act of 2005, 28 U.S.C. § 1715(b).

The Action is pending before U.S. District Court Judge Paul Byron in the United States District Court for the Middle District of Florida. On March 16, 2023, counsel for the Plaintiff(s) filed an unopposed motion for preliminary approval of a Class Action Settlement Agreement (the “Settlement Agreement”).

In accordance with 28 U.S.C. § 1715(b), please see the below information and find copies of the following documents associated with this Action on the enclosed CD.

1. Plaintiffs’ Class Action Complaint, filed on April 7, 2022. *See* 28 U.S.C. § 1715(b)(1).
2. The hearing on the Preliminary Approval Motion has not yet been scheduled. The hearing seeking final approval of the proposed settlement has not yet been set by the Court. *See* 28 U.S.C. § 1715(b)(2).
3. A copy of the proposed Long-Form Notice, Short-Form Notice, and Claim Form. *See* 28 U.S.C. § 1715(b)(3). The proposed class notices are subject to judicial review and approval.
4. The Settlement Agreement, executed on March 14, 2023, and all exhibits. *See* 28 U.S.C. § 1715(b)(4).
5. There are no contemporaneous agreements between Plaintiff’s Counsel and Defendant’s Counsel in conjunction with the proposed Settlement other than the enclosed Settlement Agreement. *See* 28 U.S.C. § 1715(b)(5).
6. At this time, no final judgment or notice of dismissal with prejudice has been entered in the Action. *See* 28 U.S.C. § 1715(b)(6).
7. It is not feasible at this time to include a list containing names of Settlement Class Members that reside in each State because the reverse-append process to locate name-and-address information has not yet been completed. *See* 28 U.S.C. § 1715(b)(7).
8. There are currently no written judicial opinions relating to the materials described in items (3) through (6) above. *See* 28 U.S.C. § 1715(b)(8).
9. The Plaintiff’s Motion for Preliminary Approval of Class Action Settlement filed on March 16, 2023.

The foregoing information is provided based upon what is currently available to date and the status of the proceedings at the time of the submission of this notice and is also available via the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.mdd.uscourts.gov>.

Sincerely,

A.B. Data, Ltd.

Settlement Administrator on behalf of Defendant

EXHIBIT B

A.B. DATA, LTD.

Class Action Administration



May 24, 2023

via USPS Priority Mail

**Re: *Lomas, et al. v. Health Insurance Associates LLC*, No. 6:22-cv-00679 (M.D. Fla.)
Supplemental 28 U.S.C. § 1715(b) Notification**

Dear Sir or Madam:

Settlement Administrator A.B. Data, Ltd., on behalf of the Defendant in the above-referenced action (the “Action”), provides the attached supplement to the original notice sent on March 24, 2023, pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1715(b). This supplement includes the reasonable estimate of Class Members by state pursuant to 28 U.S.C. § 1715(b)(7).

Sincerely,

A.B. Data, Ltd.

Settlement Administrator on behalf of Defendant

EXHIBIT C

UNITED STATES DISTRICT COURT FOR THE MIDDLE
DISTRICT OF FLORIDA
Lomas and Taylor v. Health Insurance Associates LLC, Civil Action
No. 6:22-cv-679

Insurance TCPA Settlement
c/o A.B. Data, Ltd.
PO Box 173039
Milwaukee, WI 53217

If you received a telemarketing call that was directed to Health Insurance Associates, you may be entitled to a payment of approximately \$100 from a class action settlement.
A court authorized this notice. You are not being sued. This is not a solicitation from a lawyer.

Postal Service: Please do not mark bar code

Claimant ID #: [REDACTED] 0695



[REDACTED]
1031
[REDACTED]

Call records indicate that you may be affected by a Settlement¹ of a class action lawsuit claiming that Defendant Health Insurance Associates LLC (“Health Insurance Associates”) violated a federal law called the Telephone Consumer Protection Act (“TCPA”) when their telemarketing vendor Leads Mogul LLC (“Leads Mogul”) made calls that were transferred to Health Insurance Associates. Health Insurance Associates denies that it violated the law.

¹ Capitalized terms herein have the same meanings as those defined in the Settlement Agreement.

CLAIM FORM

Section I – Instructions

This Form must be postmarked no later than June 9, 2023. You may also submit this claim online at www.InsuranceTCPASettlement.com.

Section II – Class Member Information

To be effective as a Claim under the proposed Settlement, this form must be completed, signed, and sent, no later than June 9, 2023. If this Form is not postmarked or submitted by this date, you will remain a member of the Class but will not receive any payment from the Settlement.

Claimant Name (Required): _____

Claimant Identification Number: [REDACTED] 0695 _____

Current Contact Information

Street Address (Required): _____ City: _____ State: _____ Zip Code: _____

Email (Optional): _____ Preferred Phone Number (Required): (____) _____ - _____

Your contact information will be used by the Settlement Administrator to contact you, if necessary, about your Claim. Provision of your email address is optional. By providing contact information, you agree that the Settlement Administrator may contact you about your Claim.

Section III – Confirmation of Class Membership

Telephone Number(s) for which you were the regular user or subscriber during April 7, 2018, through March 20, 2023, at which you received one or more calls promoting Health Insurance Associates LLC:

Section IV – Required Affirmations

I agree that, by submitting this Claim Form, the information in this Claim Form is true and correct to the best of my knowledge. I understand that my Claim Form may be subject to audit, verification, and Court review. I am aware that I can obtain a copy of the full notice and Settlement Agreement at www.InsuranceTCPASettlement.com or by writing the Settlement Administrator at the email address info@InsuranceTCPASettlement.com or the postal address listed in this notice.

Dated: _____ Signature: _____

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

The lawsuit is called *Lomas and Taylor v. Health Insurance Associates LLC*, Case No. 6:22-cv-679. Judge Paul Byron 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.

Who's Included? The Settlement includes the following class that the Court certified: All users or subscribers to telephone numbers that received two or more telemarketing calls in a 12-month period from Leads Mogul LLC that were forwarded to Health Insurance Associates LLC more than 30 days after their telephone numbers were registered with the National Do Not Call Registry. You are receiving this notice because your name and phone number appeared in calling records obtained for this case.

What are the Settlement Terms? Health Insurance Associates has agreed to a Settlement Sum of \$990,000. 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 will receive an estimated one hundred dollars (\$100). Only Approved Claims will be paid. Only one claim per telephone number will be validated and deemed an Approved Claim. Health Insurance Associates has also agreed to institute enhanced policies and procedures to ensure compliance with the TCPA.

How can I get a Payment? By completing the Claim Form attached to this notice and submitting it by U.S. Mail to the Settlement Administrator at the address on the Claim Form. You may also download or file a Claim Form online at www.InsuranceTCPASettlement.com. If you send in a Claim Form by regular mail, it must be postmarked on or before **June 9, 2023**. The deadline to file a Claim Form online is **11:59 p.m. on June 9, 2023**.

What are my Other Options? If you do not want to be legally bound by the Settlement, you must exclude yourself by **June 9, 2023**, by sending the Settlement Administrator a letter that complies with the procedure set forth in the Settlement, available at the Settlement Website. If you do not exclude yourself, you can share in the Settlement Sum by completing and submitting a Claim Form, and you will release any claims you may have, as more fully described in the Settlement Agreement, available at the Settlement Website. Even though you submit a Claim Form, you may object to the Settlement by **June 9, 2023**, by complying with the objection procedures detailed in the Settlement. The Court will hold a Final Approval Hearing on **June 23, 2023**, at **10:00 a.m.**, in **Orlando Courtroom 4B** before **Judge Paul G. Byron** to consider whether to approve the Settlement and a request for attorneys' fees not to exceed one-third of the Settlement Sum and reimbursement of expenses. If you properly object, you may appear at the hearing, either yourself or through an attorney hired by you, but you do not have to. For more information, call the Settlement Administrator or visit the Settlement Website.

www.InsuranceTCPASettlement.com

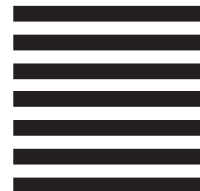
(877) 390-3290



NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES

BUSINESS REPLY MAIL
FIRST-CLASS MAIL PERMIT NO. 1000 MILWAUKEE WI

POSTAGE WILL BE PAID BY ADDRESSEE



Insurance TCPA Settlement
C/O A.B. DATA
PO BOX 173132
MILWAUKEE WI 53217-9904



EXHIBIT D

From: [REDACTED] [Health Insurance Associates TCPA Class Action Claims Administrator](#)
To: [REDACTED]
Subject: [REDACTED] - Class Action Notice for Health Insurance Associates TCPA Class Action
Date: Monday, April 10, 2023 6:46:00 PM

EXTERNAL SENDER

Claimant Identification Number: [REDACTED]

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA

Lomas and Taylor v. Health Insurance Associates LLC, Civil Action No. 6:22-cv-679

If you received a telemarketing call that was promoting Health Insurance Associates, you may be entitled to a payment of approximately \$100 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* of a class action lawsuit claiming that Defendant Health Insurance Associates, LLC ("Health Insurance Associates") violated a federal law called the Telephone Consumer Protection Act ("TCPA") when their telemarketing vendor Leads Mogul LLC ("Leads Mogul") made calls that were transferred to Health Insurance Associates. Health Insurance Associates denies that it violated the law.

The lawsuit is called *Lomas and Taylor v. Health Insurance Associates, LLC*, Case. No. 6:22-cv-679. Judge Paul Byron 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.

Who's Included? The Settlement includes the following class that the Court certified: All users or subscribers to telephone numbers that received two or more telemarketing calls in a 12-month period from Leads Mogul LLC that were forwarded to Health Insurance Associates, LLC more than 30 days after their telephone numbers were registered with the National Do Not Call Registry. You are receiving this notice because your name and phone number appeared in calling records obtained for this case.

What are the Settlement Terms? Health Insurance Associates has agreed to a Settlement Sum of \$990,000. 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 will receive an estimated one hundred dollars (\$100). Only Approved Claims will be paid. Only one claim per telephone number will be validated and deemed an Approved Claim.

Health Insurance Associates has also agreed to institute enhanced policies and procedures to ensure compliance with the TCPA.

How can I get a Payment? By completing the Claim Form online or by completing and submitting the Claim form by U.S. Mail to the Settlement Administrator at the address on the Claim Form. You may download or file a Claim Form online at www.insurancetcpasettlement.com/Home/FileClaim. If you send in a Claim Form by regular mail, it must be postmarked on or before **June 9, 2023**. The deadline to file a Claim Form online is **11:59 p.m. on June 9, 2023**.

What are my Other Options? If you do not want to be legally bound by the Settlement, you must exclude yourself by **June 9, 2023**, by sending the Settlement Administrator a letter that complies with the procedure set forth in the Settlement, available at the settlement website. If you do not exclude yourself, you can share in the Settlement Sum by completing and submitting a Claim Form, and you will release any claims you may have, as more fully described in the Settlement Agreement, available at the Settlement Website. Even though you submit a Claim Form, you may object to the Settlement by **June 9, 2023**, by complying with the objection procedures detailed in the Settlement. The Court will hold a Final Approval Hearing on **June 23, 2023, at 10:00 AM**, in **Orlando Courtroom 4B** before **Judge Paul G. Byron** to consider whether to approve the Settlement and a request for attorneys' fees not to exceed one-third of the Settlement Sum and reimbursement of expenses. If you properly object, you may appear at the hearing, either yourself or through an attorney hired by you, but you do not have to. For more information, call the Settlement Administrator or visit the Settlement Website.

Settlement Administrator

Insurance TCPA Settlement
P.O. Box 173039
Milwaukee, WI 53217
(877) 390-3290
www.InsuranceTCPASettlement.com

*Capitalized terms herein have the same meanings as those defined in the Settlement Agreement.

If you'd like to unsubscribe [click here](#).