

**IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA**

RYAN DUMAS, on behalf of himself and
others similarly situated,

Plaintiff,

v.

Case No. 50-2023-CA-016414-XXXXA-MB

PARADISE EXTERIORS, LLC,

Defendant.

**PLAINTIFF'S MOTION FOR
FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

Plaintiff, Ryan Dumas (“Plaintiff” or “Dumas”), on behalf of himself and all others similarly situated, (“Plaintiff”) respectfully moves this Court to grant final approval of the proposed class action Settlement Agreement.¹ A copy of which is attached as Exhibit 1.

I. INTRODUCTION

Representative Plaintiff Ryan Dumas and Defendant Paradise Exteriors, LLC have reached a class action settlement agreement resulting in a \$1,400,000 Settlement for the benefit of the Class, which is equal to \$575 per Class Member. Declaration of Avi Kaufman at ¶ 2, attached as Exhibit 2. This amount far exceeds the amount typically recovered in TCPA class action settlements involving much larger companies than Defendant. *See, e.g., Rose v. Bank of Am. Corp.*, 2014 WL 4273358 at *10 (N.D. Cal. Aug. 29, 2014) (\$20-\$40 per claimant); *Kolinek v. Walgreen Co.*, 311 F.R.D. 483, 493–94 (N.D. Ill. 2015) (\$30 per claimant); *Markos v. Wells Fargo Bank, N.A.*, 2017 WL 416425, at *4 (N.D. Ga. Jan. 30, 2017) (\$24 per claimant; deemed an “excellent result”); *Goldschmidt v. Rack Room Shoes*, No. 18-21220-CIV, ECF 86 (S.D. Fla. Jan. 16, 2020) (\$10 voucher and \$5 in cash, less attorneys’ fees, costs, notice and administration costs, and service award, per claimant); *Halperin v. You Fit Health Clubs, LLC*, No. 18-61722, ECF 44 (S.D. Fla.

¹ All capitalized terms used herein have the same definitions as those defined in that Agreement.

Nov. 1, 2019) (\$9, less attorneys' fees, costs, administration costs, and service award, per claimant).

Moreover, Defendant has agreed to meaningful remedial relief where it has agreed to no longer make telemarketing calls to individuals whose telephone numbers they receive as part of referrals. This is an excellent result and adds to the total economic value of the Settlement to the Class and society.

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.

For these, and the other reasons set forth in this memorandum and in the papers submitted in support of approval of the Settlement, Plaintiff and Class Counsel respectfully request that the Court: (1) grant Final Approval to the Settlement, including find that the Notice Plan and notice documents meet all applicable requirements; (2) maintain the certification of the Class, the appointment of Representative Plaintiff as Class representative, and the appointment Avi R. Kaufman of Kaufman P.A. as Class Counsel; (3) approve the Fee Award; (4) approve the payment to the Settlement Administrator; and (5) enter Judgment dismissing the action with prejudice.²

II. BACKGROUND

a. The Telephone Consumer Protection Act

The Telephone Consumer Protection Act, 47 U.S.C. § 227, and its implementing regulations were enacted by Congress and the Federal Communications Commission to “offer consumers greater protection from intrusive telemarketing calls...”³ The TCPA’s sponsor described unwanted robocalls as “the scourge of modern civilization. They wake us up in the morning; they interrupt our dinner at night; they force the sick and elderly out of bed; they hound us until we want to rip the telephone right out of the wall.” 137 Cong. Rec. 30,821 (1991)

² A proposed order will be submitted closer in time to the final approval hearing scheduled for September 19, 2024.

³ FCC, Small Entity Compliance Guide for the TCPA (dated May 13, 2013), https://apps.fcc.gov/edocs_public/attachmatch/DA-13-1086A1.pdf.

(statement of Sen. Hollings). As a remedial statute that was passed to protect consumers from unsolicited automated telephone calls, the TCPA is construed broadly to benefit consumers. *Gager v. Dell Fin. Servs., LLC*, 727 F.3d 265, 271 (3d Cir. 2013).

b. Procedural History

Plaintiff Ryan Dumas filed the complaint against Defendant in this action asserting that Paradise Exteriors, LLC violated the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227, *et seq.* by making unsolicited prerecorded calls. The parties committed significant resources to pursuing discovery in this action, including: the exchange of written discovery, followed by extensive meet and confers resulting in Defendant’s service of amended responses, Plaintiff’s issuance of a third-party subpoena to Five9 seeking call logs for Defendant’s prerecorded calls, and, ultimately, Defendant’s production of class-wide call records. Plaintiff retained an expert to conduct a thorough analysis of Defendant’s call and other records and identify consumers whose cellular telephone numbers Defendant obtained as referrals and then called using pre-recorded voice messages. The parties also respectively noticed and prepared to take/defend the depositions of Defendant’s employee in charge of utilizing the dialing system and Plaintiff but settled in principle in the days prior to the depositions.

Over the course of this action, the parties also committed significant resources to evaluating and ultimately reaching settlement. The Parties attended a full day in person mediation with Samuel Heller of Upchurch Watson White & Max. While the mediation ended in an impasse, after additional discovery and the exchange of expert reports, the parties participated in a second day long mediation with Hon. David Jones (Ret.) of Resolute Systems, LLC. The parties’ negotiations continued for nearly another month and resulted in this class action settlement in principle.

The Parties recognize and acknowledge the expense and length of continued proceedings that would be necessary to prosecute the Litigation through trial and appeals. Kaufman Decl. ¶ 5. Class Counsel has considered the strength of Defendant’s defenses and Defendant’s financial condition. Class Counsel has also considered the delays, uncertain outcomes, and risks of litigation generally, especially in complex actions such as this one.

Class 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. Kaufman Decl. ¶ 6. Based on their evaluation of all these factors, Representative Plaintiff and Class Counsel have determined that the Settlement is in the best interests of Representative Plaintiff and the Class. *Id.*

Relatedly, there is considerable ongoing risk that the ever-changing TCPA and consumer law landscape could ultimately undermine the Class's claims in part or in whole.

For example, the most severe threat to the viability of plaintiff's claims posed by a potential change in the law prior to settlement of this case was a potential ruling by the Supreme Court that the unconstitutionality of a single provision of the TCPA rendered the entire law unconstitutional and irreparable, which would have defeated all of plaintiff's and the Class's claims. *See Barr v. Am. Ass'n of Political Consultants*, 140 S. Ct. 2335, 2367 (2020) (Gorsuch, J., dissenting and opposing severance of the unconstitutional provision of the TCPA and instead concluding that the TCPA is wholly unenforceable).

And while the risks from changes in TCPA and consumer class action law have already been borne, absent the Settlement, the sheer volume of actual and potential changes to the law are proof that going forward the Class faces the ongoing risk of changes in the law based on further legislation, agency action, and court rulings. There is therefore significant ongoing risk in going forward with the Class's claims based on the likelihood of further unfavorable changes in TCPA and consumer class action law.

c. The Settlement Provides Meaningful and Immediate

Monetary and Remedial Relief to the Class and Society

The Settlement provides monetary relief of \$575 per claim to over 2,000 Class Members.

The Settlement also provides valuable remedial relief consisting of Defendant's agreement to cease telemarketing to telephone numbers obtained as referrals. Kaufman Decl. ¶ 2. Courts assessing this type of remedial relief in TCPA cases have evaluated the economic value of the changes in practices using consumer willingness to pay analyses. *See, e.g., Wright v. eXp Realty*,

LLC, No. 6:18-cv-01851 (M.D. Fla. October 25, 2022) (granting final approval of settlement with realty brokerage and valuing the settlement based on the total economic value based on a consumer willingness to pay analysis); *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 TCPA class settlement based in part on consumer willingness to pay analysis); *De Los Santos v. Milward Brown, Inc.*, Case No. 9:13-cv-80670, ECF 82-3 and 84 (S.D. Fla., Sep. 11, 2015) (granting final approval to TCPA class settlement including the valuation of the remedial relief). The total economic value of the Settlement's relief to the Class and society therefore exceeds the value of the Settlement's monetary relief alone.

Ultimately, the Settlement confers substantial and immediate benefits upon the Class and others whereas continued and protracted litigation may have ultimately delivered none given the risks presented by the ever changing TCPA and consumer class action law landscape, and the uncertainties of contested litigation, including at class certification, summary judgment, trial and on appeal. *See* Kaufman Decl. ¶ 33.

III. IMPLEMENTATION OF THE PROPOSED SETTLEMENT

The Court entered the Preliminary Approval Order on June 13, 2024. Both before and after that date, the Parties have worked diligently with the Settlement Administrator to effectuate the terms of the Settlement Agreement. Kaufman Decl. ¶ 11. The Parties agree that notice was sufficiently provided to the Class. The deadline for Class Members to take action with regard to the Settlement in this matter is September 11, 2024. As of August 5, 2024, 100% of Class Members are participating in the Settlement—as not a single Class Member has requested exclusion from or objected to the Settlement. *Id.* at ¶ 11.

IV. FINAL APPROVAL OF THE SETTLEMENT IS APPROPRIATE

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

The notice requirements of Rule 1.220 are designed to provide sufficient due process to class members by sufficiently informing them of the pendency of the Litigation and providing an

opportunity to be heard or opt out, and must be the “best notice practicable” under the circumstances. *Nelson v. Wakulla County*, 985 So. 2d 564, 576 (Fla. 1st DCA 2008). To satisfy such requirement, individual notice should be provided to Class Members who can be identified through reasonable effort. *See Cordell v. World Ins. Co.*, 355 So. 2d 479, 481 (Fla. 1st DCA 1978) (citing *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 173-75 (1974)).

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).⁴ 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 or 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 Class Members. Specifically, the direct mailed notice reached more than 90% of the Class, and the reach was further enhanced by the Settlement website, and the Settlement hotline. Kaufman Decl. at ¶ 11. This exceeds the requirements of Constitutional Due Process. Therefore, the Court should approve the Notice Plan and the form and content of the notice documents.

⁴ “Because Florida’s class action rule is based on Federal Rule of Civil Procedure 23, Florida courts may generally look to federal cases as persuasive authority in their interpretation of rule 1.220.” *InPhyNet Contracting Servs. v. Matthews*, 196 So. 3d 449, 457 (Fla. Dist. Ct. App. 2016).

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

Before granting final approval of a proposed settlement, the court must find that the terms of the settlement are fair, reasonable, and adequate. *See Ramos v. Phillip Morris Cos.*, 743 So. 2d 24, 31 (Fla. 3d DCA 1999) (citations omitted). Courts consider several factors in making such determination, including: (1) the complexity and duration of the litigation; (2) the reaction of the class to the settlement; (3) the stage of the proceedings; (4) the risk of establishing liability; (5) the risk of establishing damages; (6) the risk of maintaining a class action; (7) the ability of the defendant to withstand a greater judgment; (8) the reasonableness of the settlement in light of the best recovery; and (9) the range of reasonableness of the settlement in light of all the attendant risks of litigation. *Grosso v. Fid. Nat'l Title Ins. Co.*, 983 So. 2d 1165, 1173-74 (Fla. 3d DCA 2008); *Griffith v. Quality Distribution*, 307 So. 3d 791, 796 (Fla. 2d DCA 2018).

Analysis of these factors shows the Settlement is eminently fair, reasonable, and adequate.

i. Complexity and duration of the litigation

As described above and in greater detail in the Class Counsel declaration, the Class's claims are complex and have been extensively litigated. Kaufman Decl. ¶¶ 2-7, 21-24. Indeed, Class Counsel have spent approximately 250 hours pursuing this action. *Id.*

Recovery by any means other than this Settlement, if at all, would require additional years of litigation, including trial and appellate practice. This factor therefore supports approving the Settlement. *See, e.g., Ressler v. Jacobson*, 822 F. Supp. 1551, 1554 (M.D. Fla. 1992) (“demand for time on the existing judicial system must be evaluated in determining ... reasonableness”).

ii. Reaction of the class to the settlement

Class Counsel and the Plaintiff strongly endorse the Settlement given the significant ongoing risk associated with going forward with the Class's claims particularly in light of the Defendant's financial condition. Kaufman Decl. ¶¶ 5-6. 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); *Cook v. Gov't Emples.*

Ins. Co., No. 6:17-cv-891-ORL-40KRS, 2020 U.S. Dist. LEXIS 111956, at *25 (M.D. Fla. June 22, 2020) (“Class Counsel are experienced and well-regarded class action litigators, and this Court is inclined to give weight to their opinions.”).

Moreover, to date, there is 100% participation in the Settlement, as there have been no opt outs or objections from Class Members. Kaufman Decl. ¶ 11.

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). “This lack of opposition to the Settlement Agreement is significant evidence that the settlement terms are fair, adequate, and reasonable.” *Cook*, 2020 U.S. Dist. LEXIS 111956, at *15, 25-26.

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

Class Counsel negotiated the Settlement with the benefit of having conducted contentious litigation, including extensive first and third party discovery, document review, and expert work. Kaufman Decl. ¶ 10. As such, Class Counsel was in an appropriate position to evaluate the strengths and weaknesses of the Class’s claims and Defendant’s defenses, as well as the range of potential recoveries if the action proceeded. *Id.* The factual record therefore supports approval of the Settlement.

iv. Risk of establishing liability, damages and maintaining a class action

Plaintiff and the Class still face significant obstacles to prevailing absent the Settlement. As explained above, these risks include an adverse ruling at class certification, summary judgment, trial, and appeal. Kaufman Decl. ¶¶ 5-7, 10, 33; *see Haynes v. Shoney’s*, 1993 U.S. Dist. LEXIS 749, at *16-17 (N.D. Fla. Jan. 25, 1993) (“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.”). And the risk associated with this action is compounded by the ongoing risk of unfavorable changes to TCPA and consumer class action law as the case proceeds. Kaufman Decl. ¶ 7.

The significant ongoing risk to the Class’s claims absent the Settlement therefore supports approval of the Settlement.

v. Ability of the defendant to withstand a greater judgment

Based on Class Counsel’s analysis of Defendant’s financial condition and assessment of the risk posed by the action, Class Counsel does not believe Defendant was in a position in the future to withstand a greater judgment than the \$1.4 million in monetary relief and the additional value from the remedial relief created by this settlement. *Id.* at ¶ 5. This factor therefore supports approving the settlement.

vi. The Benefits of the settlement in light of the best recovery and range of reasonableness in light of all the attendant risks

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.*; *see Cook*, 2020 U.S. Dist. LEXIS 111956, at *21 (citing *Bennett v. Behring Corp.*, 737 F.2d 982, 987 n.9 (11th Cir. 1984), in which the court “approved [a] settlement providing 5.6% of the potential recoverable damages”).

Here, the Settlement is far from inadequate in that it provides \$575 per Class Member and significant remedial relief. Given the significant litigation risks the Class faced and the significant monetary value per Class Member, the Settlement represents an extremely successful result.

The monetary relief per Class Member alone is significant and exceeds the range of similar settlements. The amount apportioned by the Settlement to each Claimant (\$575) exceeds the range of per claim payouts in the majority of TCPA class action settlements, including in cases involving companies much larger than Defendant. *See, e.g., Rose v. Bank of Am. Corp.*, 2014 WL 4273358 at *10 (N.D. Cal. Aug. 29, 2014) (\$20-\$40 per claimant); *Kolinek v. Walgreen Co.*, 311 F.R.D. 483, 493–94 (N.D. Ill. 2015) (\$30 per claimant); *Markos v. Wells Fargo Bank, N.A.*, 2017 WL

416425, at *4 (N.D. Ga. Jan. 30, 2017) (\$24 per claimant; deemed an “excellent result”); *Goldschmidt v. Rack Room Shoes*, No. 18-21220-CIV, ECF 86 (S.D. Fla. Jan. 16, 2020) (\$10 voucher and \$5 in cash, less attorneys’ fees, costs, notice and administration costs, and service award, per claimant); *Halperin v. You Fit Health Clubs, LLC*, No. 18-61722, ECF 44 (S.D. Fla. Nov. 1, 2019) (\$9, less attorneys’ fees, costs, administration costs, and service award, per claimant). *See also Hamilton v. SunTrust Mortg. Inc.*, 2014 U.S. Dist. LEXIS 154762, at *20 (S.D. Fla. Oct. 24, 2014) (the total value of the benefits made available by the settlement, and not the structure or claims rate, dictate the determination of “fairness, reasonableness, or adequacy”).

The benefits provided by the Settlement therefore support its final approval. “This conclusion is buttressed by the fact that Defendant[] agreed to change their business practice . . . moving forward.” *Cook*, 2020 U.S. Dist. LEXIS 111956, at *21. And this conclusion is not undermined by the Settlement’s structure, terms for awarding attorneys’ fees, or relative treatment of Class Members.

“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.” *Braynen v. Nationstar Mortg., LLC*, 2015 U.S. Dist. LEXIS 151744, at *48-50 (S.D. Fla. Nov. 9, 2015) (“Courts often grant final approval of class action settlements before the final claims deadline. . . . 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); *see Poertner v. Gillette Co.*, 618 F. App’x 624, 626 (11th Cir. 2015) (approving settlement class); *Cook*, 2020 U.S. Dist. LEXIS 111956, at *13-14 (collecting cases approving settlements).

Similarly, the terms of the proposed fee award do not undermine the Settlement’s fairness or adequacy, as the Settlement is “not conditioned on an award of attorneys’ fees”. *Cook*, 2020 U.S. Dist. LEXIS 111956, at *24-25; Kaufman Decl. ¶ 21.

Finally, the Settlement treats Class members equitably. “Under the Settlement Agreement, Settlement Class Members are treated identically insofar as it relates to Notice, Claim Forms,

damages, and all other material ways. Additionally, the scope of the release is identical as to all Class Members,” and it is narrowly tailored to the types of claims at issue in the case. *Cook*, 2020 U.S. Dist. LEXIS 111956, at *25; Kaufman Decl. ¶ 8.

The Settlement’s benefits, structure, terms for awarding Class Counsel’s attorneys’ fees, and treatment of Class Members relative to each other is fair, reasonable, and adequate.

3. The Court Should Certify the Settlement Class

Pursuant to this Court’s June 13, 2024 Order, this Court provisionally certified the Class for settlement purposes only. For all the reasons set forth in Plaintiff’s preliminary approval briefing and the Preliminary Approval Order, the Court should finally certify the Class as it continues to meet all the requirements of Rule 1.220(a). Namely, (1) there are approximately two thousand class members who were identified based on an expert analysis of call records produced by the Defendant (numerosity), (2) Plaintiff has alleged questions of fact and law common to the Class, including whether Defendant violated the TCPA by making pre-recorded calls to cellular telephone numbers (commonality), (3) Plaintiff’s claims and interest in the settlement are the same as class members’ claims and Plaintiff is not subject to any unique affirmative defenses as Plaintiff’s cellular telephone number was obtained as a referral by Defendant and then called using a pre-recorded voice message (typicality), and (4) Plaintiff and Class Counsel have zealously litigated the claim, including by conducting first party and third party discovery, engaging an expert to conduct a thorough analysis of Defendant’s records, and participating in two full day mediations; secured full relief; and have no interests antagonistic to the class (adequacy). Kaufman Decl. ¶ 9.

As to Rule 1.220(b)(3), pursuant to the terms of the Settlement, (1) there are no individual issues precluding class treatment as Defendant obtained all Class Members’ cellular telephone numbers as referrals and then called them using prerecorded voice messages (predominance), and (2) class treatment is the best method of adjudication without the need for numerous (and duplicative) individual cases of limited individual value (superiority). A resolution of the action in the manner proposed by the Settlement Agreement is superior to other available methods for a fair

and efficient adjudication of this action. Thus, certification of the Class is warranted for settlement purposes only.

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

V. CLASS COUNSEL’S REQUESTED FEES AND EXPENSES ARE FAIR, REASONABLE, AND JUSTIFIED, AND SHOULD BE APPROVED

Pursuant to the Agreement, as indicated in the notices to the Class, and consistent with Florida law, Class Counsel respectfully requests an award of attorneys’ fees of one third of the Settlement Sum, without accounting for the additional value created by the remedial relief, equaling \$466,666.66, and documented and reasonable expenses and costs incurred pursuing the claims on behalf of the Class in the amount of \$6,907.54. The requested attorneys’ fees total Class Counsel’s lodestar with a 2.3 multiplier. Class Counsel have incurred expenses in the prosecution of this action in the amount of \$6,907.54 for filing fees, process server fees, expert fees, and mediation fees. Kaufman Decl. ¶¶ 24-29. These expenses were reasonable and necessary for prosecuting this action and are the types of expenses typically billed to clients in non-contingency matters. *Id.*

The fee award and reimbursement of costs sought here, including out of pocket costs advanced by Class Counsel without any assurance of repayment, is reasonable under the guidance of the Supreme Court and the Florida Supreme Court for analysis of fee petitions in class actions where a common fund is obtained. *See Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980) (The Supreme Court “has recognized consistently that a litigant or a lawyer who recovers a common fund for the benefit of persons other than himself or his client is entitled to a reasonable attorney’s fee from the fund as a whole.”); *Kuhnlein v. Dep’t of Revenue*, 662 So. 2d 309 (Fla. 1995) (“We find that in all common-fund cases in which attorney fees have not been assessed by a trial court using the lodestar approach as of the date of this opinion and in which a multiplier is determined to be appropriate, the maximum multiplier can be as much as 5.”).

“A court must review the “contingency risk” factors and the “results obtained for the benefit of the class” as required by rule 4-1.5 of the Rules Regulating the Florida Bar to establish whether the multiplier is proper.” *Ramos v. Philip Morris Cos.*, 743 So. 2d 24, 32 (Fla. 3d DCA 1999)

(Upholding award of attorneys' fees and stating that a multiplier of 5 "was justified because this case was extraordinarily risky"). A review of these factors supports the requested fee here.

1. The Case Required Substantial Time and Labor and as a Result Precluded Other Employment By Class Counsel

Plaintiff's and the Class's claims demanded considerable time and labor, precluding other employment by Class Counsel, and making the requested fee fair, reasonable, and justified. Kaufman Decl. ¶¶ 3-4, 24-27, 30. As detailed above and in Class Counsel's declaration, this Settlement is the result of significant contentious litigation involving first and third party discovery, expert analysis, and other material proceedings. Pursuing these claims against Defendant required hundreds of hours of attorney time, not to mention nearly \$7,000.00 in Class Counsel out of pocket costs. It was settled only after extensive discovery, and other proceedings, including disclosure of experts and preparation for depositions.

Counsel's requested fee is one third of the Settlement's monetary value, and is well within the range of fees typically awarded in similar cases. Numerous decisions within and outside of Florida and the Eleventh Circuit have found that a fee of one-third of a settlement's total value is the benchmark fee percentage. *E.g., Belin v. Health Ins. Innovations, Inc.*, No. 19-cv-61430, 2022 U.S. Dist. LEXIS 70141 (S.D. Fla. Apr. 15, 2022) (collecting cases in this Circuit awarding one-third or more of the class settlement fund and awarding approximately \$9 million in attorneys' fees constituting one third of the settlement fund); *Hanley v. Tampa Bay Sports & Entm't Ltd. Liab. Co.*, No. 8:19-CV-00550-CEH-CPT, 2020 U.S. Dist. LEXIS 89175, at *16 (M.D. Fla. Apr. 23, 2020) (collecting cases and stating that "district courts in the Eleventh Circuit routinely approve fee awards of one-third of the common settlement fund" and approving fees of more than one third of TCPA settlement fund); *Wolff v. Cash 4 Titles*, No. 03-22778- CIV, 2012 WL 5290155, at *5-6 (S.D. Fla. Sept. 26, 2012) ("The average percentage award in the Eleventh Circuit mirrors that of awards nationwide—roughly one-third.") (citing Circuit case law and listing Southern and Middle District of Florida attorneys' fee awards). Class Counsel's fee request is lower than this one-third benchmark when taking into account the total value of the settlement, including the

economic value of Defendant's changes in business practices.

Class Counsel's fee request also falls specifically within the range of awards in TCPA cases within Florida and the Eleventh Circuit. *See, e.g., Wright v. eXp Realty, LLC*, No. 6:18-cv-01851 (M.D. Fla. October 25, 2022) (awarding one-third of the settlement's monetary value in attorneys' fees); *Beiswinger*, ECF 36 (M.D. Fla. 2022) (granting fees equal to one-third of the settlement fund); *Hanley*, 2020 U.S. Dist. LEXIS 89175, at *16 (granting more than one-third in fees); *Gottlieb v. Citgo Petroleum Corp.*, No. 9:16-cv-81911, 2017 U.S. Dist. LEXIS 197382, at *7 (S.D. Fla. Nov. 29, 2017) (granting one third in fees); *ABC Bartending School of Miami, Inc., v. American Chemicals & Equipment, Inc.*, No. 15-CV-23142-KMV (S.D. Fla. April 11, 2017) (granting one-third in fees); *Guarisma v. ADCAHB Med. Coverages, Inc.*, Case No. 1:13-cv-21016 (S.D. Fla. June 24, 2015) (same).

Moreover, Class Counsel has been awarded attorneys' fees as a percentage of the fund in TCPA class actions based on lodestar cross-checks using Mr. Kaufman's hourly rate of \$800 and Ms. Kaufman's hourly rate of \$730. *See Wright v. eXp Realty, LLC*, No. 6:18-cv-01851 (M.D. Fla. October 26, 2022); *Beiswinger v. West Shore Home LLC*, Case No. 3:20-cv-01286-HES-PDB, ECF 36 (M.D. Fla. May 26, 2022); *Judson v. Goldco Direct, LLC*, Case No. 2:19-cv-06798-PSG-PLA, ECF 59 (C.D. Cal. Jun. 11, 2021); *Izor v. Abacus Data Sys.*, No. 19-cv-01057-HSG, 2020 U.S. Dist. LEXIS 239999, at *26-27 (N.D. Cal. Dec. 21, 2020); *Bulette v. Western Dental Services Inc.*, No. 3:19-cv-00612-MMC, ECF 82 (N.D. Cal. Jul. 17, 2020). Courts have found similar rates reasonable in similar class action settlements involving similarly specialized and successful class counsel. *Junior v. Infinity Ins. Co.*, No. 6:18-cv-1598-WWB-EJK, 2021 U.S. Dist. LEXIS 58354, at *10 (M.D. Fla. Mar. 25, 2021) (approving fee award based, in part, on the reasonableness of the lodestar cross-check, where counsel's hourly rates were \$850 and \$800), recommendation and order adopted and approved at ECF 72 (Apr. 29, 2021). *See also Sos v. State Farm Mut. Auto. Ins. Co.*, No. 6:17-cv-890-PGB-LRH, 2021 U.S. Dist. LEXIS 52898, at *18 (M.D. Fla. Mar. 19, 2021) (finding that: (1) "Commercial class action law is sufficiently specialized that it should be considered a national market"; and (2) "previously awarded hourly rates provide an acceptable

guidepost for determining the fee customarily charged in the locality for similar legal services” (internal citation omitted)).

Based on the hourly rates of \$730 for Ms. Kaufman and \$800 for Mr. Kaufman, the total lodestar amount for Class Counsel’s time expended to date in this action is \$200,890. Accordingly, the requested fee is a 2.3 multiplier of the lodestar amount—a multiplier *below* the range regularly approved in similar class action cases. In fact, a multiplier of 2.5-5 times lodestar is typically awarded in class actions to compensate for contingency risk. *E.g.*, *Ramos v. Philip Morris Cos.*, 743 So. 2d 24, 32 (Fla. 3d DCA 1999) (approving a multiplier of 5); *Wright v. eXp Realty, LLC*, No. 6:18-cv-01851 (M.D. Fla. October 26, 2022) (awarding Class Counsel fees based on a lodestar cross-check applying a 3.95 multiplier); *In re Health Ins. Innovs. Sec. Litig.*, No. 8:17-cv-2186-TPB-SPF, 2021 U.S. Dist. LEXIS 61051, at *39-40 (M.D. Fla. Mar. 23, 2021); *Junior v. Infinity Ins. Co.*, No. 6:18-cv-1598-WWB-EJK, 2021 U.S. Dist. LEXIS 58354, at *11 (M.D. Fla. Mar. 25, 2021) (awarding a contingency multiplier of 3.85 because “Class Counsel was able to secure an exceptional result”).

2. Contingency Risk - The Issues in this Case Were Difficult, Making the Case Undesirable, Presenting Significant Risk, and Requiring the Skill of Talented and Experienced Attorneys

In any given case, class counsel’s skill should be commensurate with the novelty and complexity of the issues, as well as opposing counsel’s skill. Litigation of this case required counsel trained in class action law and procedure as well as the specialized issues presented here. Class Counsel is particularly experienced in the litigation, certification, and settlement of nationwide class action cases, and Kaufman P.A.’s participation added value to the representation of this Class. Kaufman Decl. ¶¶ 12-18. To date, not including this Settlement, Class Counsel have recovered over \$100 million through TCPA class action settlements for the benefit of consumers. Kaufman Decl. ¶ 13.

Moreover, class certification of a consumer TCPA case is difficult and far from guaranteed, making the case undesirable and risky, and requiring the skill of highly talented attorneys. *See*,

e.g., *In re Sunbeam Sec. Litig.*, 176 F. Supp. 2d 1323, 1336 (S.D. Fla. 2001) (“A court’s consideration of this factor recognizes that counsel should be rewarded for taking on a case from which other law firms shrunk. Such aversion could be due to any number of things, including ... thorny factual circumstances, or the possible financial outcome of a case. All of this and more is enveloped by the term ‘undesirable.’”).

“The importance of ensuring adequate representation for plaintiffs who could not otherwise afford competent attorneys justifies providing those attorneys who do accept matters on a contingent-fee basis a larger fee than if they were billing by the hour or on a flat fee.” *In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1047 (N.D. Cal. 2008); *see Berry v. Wells Fargo & Co.*, No. 3:17-cv-00304-JFA, 2020 U.S. Dist. LEXIS 143893, at *35 (D.S.C. July 29, 2020) (“class counsel undertook to prosecute this action without any assurance of payment for their services. Counsel’s entitlement to payment was entirely dependent upon achieving a good result for Plaintiff and the class. Contingency fee arrangements are customary in class action cases and such arrangements are usually one-third or higher. Therefore, this factor supports the reasonableness of the requested fee award” (internal citation omitted)).

Because Class Counsel was working entirely on a contingency basis, only a successful result – at trial or by settlement – would result in any fees and recovery of expenses. Kaufman Decl. at ¶¶ 29-30. Nevertheless, Class Counsel spent hundreds of hours and nearly \$7,000.00 to zealously promote the Class’s interests. Kaufman Decl. at ¶¶ 26, 29.

3. Results Obtained for the Class

In determining whether a fee award is reasonable, courts must evaluate the results achieved, *i.e.*, the benefit to the class and society from the litigation. *Farrar v. Hobby*, 506 U.S. 103, 114 (1992). This factor addresses monetary relief as well as the value of any remedial relief. *See Hall v. Cole*, 412 U.S. 1, 5 n.7 (1973) (the right to fees “must logically extend, not only to litigation that confers a monetary benefit on others, but also litigation ‘which corrects or prevents an abuse which would be prejudicial to the rights and interests’ of those others”).

Given the significant litigation and corresponding risks the Class faced and would continue

to face, the Settlement represents a successful result. Rather than facing further costly and uncertain pre-trial litigation (including contentious class certification proceedings and likely appellate proceedings no matter the outcome of such), trial, and appeals, the Settlement makes available an immediate cash benefit of \$1.4 million to the Class and provides meaningful remedial relief that will prevent future unsolicited telemarketing calls. Kaufman Decl. ¶¶ 32-33. In addition to these economic benefits, Class Counsel also secured other “favorable terms” as part of the Settlement, including “robust notice, a simple and streamlined claims’ process, and narrowly tailored release” that support the conclusion that the requested fees are warranted. *See Cook*, 2020 U.S. Dist. LEXIS 111956, at *32-33.

The adequacy of a settlement’s relief and class counsel’s corresponding entitlement to fees should be evaluated based on the value of the benefits made available by the settlement. *See Waters v. Int’l Precious Metals Corp.*, 190 F.3d 1291, 1295–96 (11th Cir. 1999) (affirming fee award of one-third of total amount made available to class); *Holmes v. Wca Mgmt. Co., L.P.*, No. 6:20-cv-698, 2022 U.S. Dist. LEXIS 52756 at *5 (M.D. Fla. Jan. 12, 2022) (awarding one-third in attorneys’ fees); *Saccoccio v. JP Morgan Chase Bank, NA*, 297 F.R.D. 683, 695 (S.D. Fla. 2014) (“The attorneys’ fees in a class action can be determined based upon the total fund.”); *Pinto v. Princess Cruise Lines, Ltd.*, 513 F. Supp. 2d 1334, 1339 (S.D. Fla. 2007) (same); *see also Poertner v. Gillette Co.*, 618 F. App’x 624, 626 (11th Cir. 2015) (approving settlement class); *Braynen v. Nationstar Mortg., LLC*, No. 14-CV-20726, 2015 U.S. Dist. LEXIS 151744, at *48-50 (S.D. Fla. Nov. 9, 2015) (““Courts often grant final approval of class action settlements before the final claims deadline. . . . 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).

In fact, the relief obtained for the Class is the best relief because it was the only real relief possible without significant additional risk. Defendant has demonstrated that it would not have settled the case using any other structure and would have instead moved forward with class certification proceedings, and if unsuccessful, tried the case, and, if again unsuccessful, filed a

post-trial appeal with no certainty that if Plaintiff had prevailed at each of these steps that Defendant would have been able to fund a judgment. Kaufman Decl. ¶¶ 5-6; *cf. Cook*, 2020 U.S. Dist. LEXIS 111956, at *24 (finding that the settlement reached provided the only and therefore best relief).

VI. CONCLUSION

Plaintiff and Class Counsel respectfully request that this Court: (1) grant Final Approval to the Settlement, including finding that the Notice Plan and notice documents meet all applicable requirements; (2) maintain the certification of the Class, appointment of Representative Plaintiff as Class representative, and appointment of Avi R. Kaufman of Kaufman P.A. as Class Counsel; (3) grant Class Counsel's fee petition; (4) approve payment to the Settlement Administrator; and (5) enter Judgment.

Dated: August 7, 2024

Respectfully submitted,

/s/ Avi R. Kaufman

Avi R. Kaufman, Esq. (Florida Bar No. 84382)

KAUFMAN P.A.

237 South Dixie Highway, 4th Floor

Coral Gables, FL 33133

kaufman@kaufmanpa.com

(305) 469-5881

Counsel for Plaintiff and all others similarly situated

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 7, 2024 a copy of the foregoing has been served on all counsel of record through Florida's E-Filing Portal.

/s/ Avi R. Kaufman

Avi R. Kaufman

EXHIBIT 1

**IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA**

RYAN DUMAS, on behalf of himself and
others similarly situated,

Plaintiff,

v.

Case No. 50-2023-CA-016414-XXXA-MB

PARADISE EXTERIORS, LLC

Defendant.

CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (“Agreement”) is made and entered into by and between Representative Plaintiff Ryan Dumas, on behalf of himself and the Settlement Class, and Paradise Exteriors LLC (“Defendant”) to settle and compromise this action and settle, resolve, and discharge the Released Claims, as defined below, according to the terms and conditions herein.

RECITALS

WHEREAS, *Dumas v. Paradise Exteriors LLC*, No. 50-2023-CA-016414-XXXA-MB, was filed December 6, 2023 in the Circuit Court of the Fifteenth Judicial Circuit for Palm Beach County, Florida, alleging Defendant violated the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227, *et seq.*;

WHEREAS, Defendant denies each and every one of Representative Plaintiff’s allegations of unlawful conduct, damages, or other injuries and maintains that it complied with the TCPA and all applicable laws;

WHEREAS, based upon the investigation, and evaluation of the facts and law relating to the matters alleged in the pleadings, motions practice to date, plus the risks and uncertainties of continued litigation and all factors bearing on the merits of settlement, Representative Plaintiff and Class Counsel have agreed to settle the claims asserted in the Litigation pursuant to the provisions of this Settlement;

WHEREAS, in an effort to facilitate a resolution of the Litigation, the Settling Parties participated in lengthy, arms’ length negotiations, including a day long mediation with Samuel Heller of Upchurch Watson White & Max, a second day long mediation with Hon. David Jones (Ret.) of Signature Resolutions, and follow up negotiations;

WHEREAS, the Parties understand, acknowledge and agree that the execution of this Agreement constitutes the settlement and compromise of disputed claims. This Agreement is inadmissible as evidence

except to enforce the terms of the Agreement and is not an admission of wrongdoing or liability on the part of any Party to this Agreement;

NOW THEREFORE, subject to the Final Approval Order of the Court as required herein and applicable law and rules, the Settling Parties hereby agree, in consideration of the mutual promises and covenants contained herein, that all Released Claims against any Released Parties shall be settled, compromised and forever released upon the following terms and conditions.

TERMS AND CONDITIONS OF THE SETTLEMENT

1. DEFINITIONS

1.1 As used herein, the following terms have the meanings set forth below.

1.1.1 “Agreement or Settlement Agreement” means this document, including all exhibits.

1.1.2 “Appeal” means a request for appellate review of any order or judgment of the Court entered in this Litigation, including but not limited to appeals as of right, discretionary appeals, interlocutory appeals, any order reinstating an appeal, and proceedings involving writs of certiorari and/or any proceedings thereon.

1.1.3 “Approved Claim” means a claim submitted by a Class Member that: (a) is received by the Settlement Administrator or postmarked on or before the Claims Deadline; (b) is fully and truthfully completed by a Class Member with all information requested in the Claim Form, and in accordance with the directions on the Claim Form; (c) is signed by the Class Member, physically or electronically; and (d) is approved by the Settlement Administrator pursuant to the provisions of this Agreement as a valid claim eligible to receive payment from the Settlement Sum under the Agreement and the Final Approval Order and Judgment.

1.1.4 “Claims Deadline” means the date that is set by the Court and approximately sixty (60) days after the Notice Date.

1.1.5 “Claim Form” means the document to be submitted by Claimants seeking payment pursuant to this Settlement, attached as Exhibit A.

1.1.6 “Claim Settlement Payment” means the payment to be made to Class Members who submit Approved Claims.

1.1.7 “Claimant” means a Class Member who submits a Claim Form.

1.1.8 “Class” means all users or subscribers to cellular telephone numbers that were contacted by Defendant using a prerecorded voice message from November 1, 2021 through April 30, 2022 after having been supplied as referrals by existing customers of Paradise Exteriors. For purposes of settlement the parties estimate the class consists of approximately 2,435 individuals.

1.1.9 “Class Counsel” means Avi R. Kaufman of Kaufman P.A.

1.1.10 “Class Member” means a person who falls within the definition of the Class and who does not opt out of the Settlement as set forth in Paragraph 9.4.

1.1.11 “Class Period” means from November 1, 2021 through April 30, 2022.

1.1.12 “Court” means the Circuit Court of the Fifteenth Judicial Circuit for Palm Beach County, Florida.

1.1.13 “Complaint” means the operative complaint in this Litigation at the time the Court enters the Preliminary Approval Order.

1.1.14 “Defendant” means Paradise Exteriors LLC.

1.1.15 “Defense Counsel” means Defendant’s counsel of record in the Litigation, Diane Zelmer of Berenson LLP.

1.1.16 “Effective Date” means the first date by which any Judgment entered pursuant to the Agreement becomes Final. If the settlement contained in this Settlement Agreement is not approved by the Court and does not result in Judgment, or if the Judgment is set aside, materially modified, or overturned by the trial court or on appeal, and is not fully reinstated on further appeal, this Agreement will never become effective and will be terminated and cancelled and the Parties will be returned to their positions status quo ante with respect to the Action as if this Agreement had not been entered into.

1.1.17 “Fee Award” means the amount of attorneys’ fees and reimbursement of expenses that may be awarded by the Court and that will be paid out of the Settlement Sum.

1.1.18 “Final” means one business day following the later of the following events: (i) the expiration of the time to file a motion to alter or amend a judgment has passed without any such motion having been filed; (ii) the expiration of the time in which to file an Appeal of any judgment entered pursuant to this Agreement has passed without any Appeal having been taken; and (iii) the resolution of any such Appeal in a

manner that does not reverse or vacate the Judgment and in a manner that permits the consummation of the Settlement substantially in accordance with the terms and conditions of this Agreement. Any proceeding or order, or any Appeal pertaining solely to any request or order regarding the Fee Award will not in any way delay or preclude the Judgment from becoming Final.

1.1.19 “Final Approval Hearing” means the final hearing, held after the Preliminary Approval Order is issued and Class Members have been given reasonable notice and an opportunity to object or to exclude themselves from the Settlement, at which the Court will determine whether to finally approve the Settlement and to enter Judgment.

1.1.20 “Final Approval Order” means an order, providing for, among other things, final approval of the Settlement.

1.1.21 “Judgment” means the judgment to be entered by the Court pursuant to this Settlement Agreement.

1.1.22 “Litigation” means *Dumas v. Paradise Exteriors LLC*, No. 50-2023-CA-016414-XXXA-MB, which was filed December 6, 2023 in the Circuit Court of the Fifteenth Judicial Circuit for Palm Beach County, Florida.

1.1.23 “Notice” means a document substantially in the form of Exhibit B hereto, and “Summary Notice” means a document substantially in the form of Exhibit C hereto, to be disseminated in accordance with the Preliminary Approval Order, informing Persons who fall within the Class of, among other things, the pendency of the Litigation, the material terms of the proposed Settlement, and their options with respect thereto.

1.1.24 “Notice Date” means the last date by which the Notice is first disseminated by mail pursuant to the Notice Plan.

1.1.25 “Notice Plan” shall mean the proposed plan of disseminating to Class Members notice of the proposed Settlement and of the Final Approval Hearing, as approved by the Court.

1.1.26 “Opt-Out Deadline” means the date set by the Court for Class Members to opt-out of or object to the Settlement that is approximately sixty (60) days after the Notice Date.

1.1.27 “Parties” means, collectively, Representative Plaintiff and Defendant.

1.1.28 “Person” means an individual, corporation, partnership, limited partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, any business or legal entity, and such individual’s or entity’s spouse, heirs, predecessors, successors, representatives, and assignees.

1.1.29 “Preliminary Approval Order” means an order, providing for, among other things, preliminary approval of the Settlement and dissemination of the Notice to the Class according to the Notice Plan.

1.1.30 “Released Claims” shall mean any and all claims, liabilities, demands, causes of action, or lawsuits, whether known or Unknown Claims, whether legal, statutory, equitable, or of any other type or form, whether under federal, state, or local law (such as any violations of the TCPA, the FCC’s related regulations—including internal Do Not Call requirements, the Florida Telephone Solicitation Act, or unfair or deceptive practices act), and whether brought in an individual, representative, or any other capacity, that were brought in the Litigation or that arise from or relate to consumer outreach or consumer direct marketing activity by telephone, including prerecorded messages, text messages or any other calls made, or attempted to be made, by or on behalf of Defendant, from four years prior to the filing of the initial complaint through the date of the Judgment.

1.1.31 “Released Parties” means Defendant and any respective corporate parent, subsidiary, or affiliated entities, along with each of their current, former, and future owners, members, partners, officers, directors, shareholders, employees, assigns, successors, servants, insurers, representatives, and attorneys or agents, without limitation. Defendant’s marketers, vendors, and third-party contractors are also Released Parties but only insofar as any Released Claim relates to actions taken on behalf of Defendant.

1.1.32 “Releasing Parties” means: (a) Representative Plaintiff, his heirs, assigns, successors in interest, and personal representatives; (b) Class Members who do not timely opt out; (c) to the extent that a Class Member is not an individual, all of its present, former, and future predecessors, successors, assigns, parents, subsidiaries, joint ventures, and affiliates, and all employees, agents, representatives, consultants, independent contractors, insurers, directors, officers, partners, principals, members, attorneys, accountants, financial advisors, investors, investment bankers, underwriters, shareholders, lenders, and auditors of any of

the foregoing Persons; and (d) to the extent the Class Member is an individual, any present, former, and future spouses, as well as the present, former, and future heirs, executors, estates, administrators, representatives, agents, attorneys, partners, successors, predecessors, and assigns of each of them, and any other representatives of any of the foregoing Persons.

1.1.33 “Representative Plaintiff” means Plaintiff Ryan Dumas.

1.1.34 “Settlement” means the settlement set forth in this Agreement.

1.1.35 “Settlement Administration Expenses” means the expenses incurred by the Settlement Administrator administering this Settlement, including in providing notice, processing claims, administering the Settlement, and mailing checks for Approved Claims. All Settlement Administration Expenses shall be paid exclusively from the Settlement Sum

1.1.36 “Settlement Administrator” means Kroll Settlement Administration LLC.

1.1.37 “Settlement Sum” means \$1,400,000. The Settlement Sum represents the maximum possible payment by Defendant under this Agreement from which payments for all (a) Approved Claims to Class Members, (b) Settlement Administration Expenses, (c) CAFA Notice, and (d) any Fee Award, will be made.

1.1.38 “Settling Parties” means, collectively, Defendant, Representative Plaintiff, and all Class Members.

1.1.39 The plural of any defined term includes the singular, and the singular of any defined term includes the plural.

2. DENIAL OF WRONGDOING AND LIABILITY

2.1 Defendant denies the material factual allegations and legal claims asserted by Representative Plaintiff in the Litigation, including any and all charges of wrongdoing or liability arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Litigation. Further, Defendant maintains that it has strong, meritorious defenses to the claims alleged in the Litigation and that it was prepared to vigorously defend all aspects of the Litigation.

2.2 This Agreement, any negotiations or proceedings related to it, the implementation of it, and any papers submitted in support of the motions for approval of it (collectively, the “Settlement Proceedings”) are not to be construed as or deemed to be evidence of any admission or concession by any of the Parties regarding liability, damages, or the appropriateness of class treatment, and are not to be offered or received in evidence in any action or proceeding for any purpose whatsoever; provided, however, that this Agreement and the Settlement Proceedings may be presented to the Court in connection with the implementation or enforcement of this Agreement, or as may be necessary or appropriate to further the purposes sought to be achieved by this Agreement.

3. THE BENEFITS OF SETTLEMENT

3.1 Class Counsel and Representative Plaintiff recognize and acknowledge the expense and length of continued proceedings that would be necessary to prosecute the Litigation against Defendant through trial and appeals. Class Counsel also has taken into account the strength of Defendant’s defenses, difficulties in proving vicarious liability, and the uncertain outcome and risks of litigation, especially in complex actions such as this one, and the inherent delays in such litigation. Class Counsel believes that the proposed Settlement confers substantial benefits upon the Class. Based on their evaluation of all of these factors, Representative Plaintiff and Class Counsel have determined that the Settlement is in the best interests of Representative Plaintiff and the Class.

4. SETTLEMENT TERMS

4.1 Defendant will fund the Settlement Sum as set forth in this paragraph. Defendant shall pay to the Settlement Administrator all Settlement Administration Expenses as incurred and invoiced by the Settlement Administrator. Defendant shall pay to the Settlement Administrator all amounts required to pay Approved Claims within 30 days of final approval. Defendant shall pay to Plaintiff’s counsel by wire or ACH transfer any Fee Award within 30 days of final approval. The Settlement Sum will be used for the purpose of making all required payments under this Settlement, including payments associated with Settlement Administration Expenses, for Approved Claims, or any approved Fee Award. Any part of the Settlement Sum that is not used to pay for Settlement Administration Expenses, for Approved Claims, or any approved Fee Award shall remain with the Defendant. Defendant shall have no responsibility to segregate or escrow any funds to account for the Settlement

Sum and, in no event shall Defendant's total financial liability with respect to this Agreement, the Released Claims, and the Settlement exceed the Settlement Sum.

4.2 Payment to Class Members

4.2.1 Each Class Member shall be entitled to submit one claim per telephone number he or she used or subscribed to.

4.2.2 Adequate and customary procedures and standards will be used by the Settlement Administrator to prevent the payment of fraudulent claims and to pay only legitimate claims, including, but not limited to, verifying claimed calls with information provided by the Parties. No fraudulent claim or other claim except a claim containing all required components—including the signature of a valid Class Member and a claim ID— shall be an Approved Claim.

4.2.3 Claim Settlement Payments will be made to Class Members who timely submit a valid Claim Form by the Claims Deadline.

4.2.4 Each Class Member who makes an Approved Claim shall be entitled to a Claim Settlement Payment in an amount not to exceed Five Hundred and Seventy-Five Dollars (\$575) less each Class Member's share of any Fee Award, which is calculated by dividing the total Fee Award by the total number of Class Members. In the event that the total amount of Claim Settlement Payments for Approved Claims would exceed the threshold at which there would be insufficient funds in the Settlement Sum to pay all Approved Claims, any Fee Award, and Settlement Administration Expenses, the amount on a per claim basis will also be reduced by each Class Member's share of Settlement Administration Expenses so that the Settlement Sum is exhausted but not exceeded.

4.2.5 Payments will be made directly to the Class Member by the Settlement Administrator.

4.3 Separate and apart from the Settlement Sum, subject to Court approval, Defendant shall pay to Representative Plaintiff \$5,000 in the interest of compromising Plaintiff's individual claims not released in the Agreement against Defendant, as well as resolving all outstanding issues between the Parties through the Effective Date. In the event the Court approves the Settlement, but does not approve the separate payment to Representative Plaintiff, the Settlement will nevertheless be binding on the Parties and the Class Members.

4.4 Without admission of guilt, and as further non-monetary relief to the class, Defendant has also agreed to cease telemarketing to telephone numbers obtained as referrals.

5. ATTORNEYS' FEES, EXPENSES, AND COSTS

5.1 Class Counsel shall apply to the Court for attorneys' fees of up to one third of the Settlement Sum and documented and reasonable expenses and costs incurred pursuing the claims on behalf of the Class. Class Counsel's application for fees, expenses, and costs shall be filed no later than thirty-five (35) days prior to the Opt-Out Deadline. Any Fee Award approved by the Court shall be paid solely out of the Settlement Sum and shall not increase Defendant's total financial liability with respect to this Agreement or Settlement.

5.2 In the event the Court approves the Settlement, but declines to award a Fee Award in the amount requested by Class Counsel, the Settlement will nevertheless be binding on the Parties and the Class Members.

5.3 Defendant shall have no liability to Class Counsel or any other Person arising from any claim regarding the division of the Fee Award between and among Class Counsel or any other counsel who may claim entitlement to any portion of the Fee Award.

5.4 The Fee Award, if approved by the Court, shall be paid by wire or ACH transfer by Defendant to Class Counsel with 30 days of final approval, provided that the law firm or attorney being paid has executed and provided to Defendant a Form W-9.

5.5 The Court shall retain jurisdiction of any dispute regarding the Fee Award and any repayment of any amount of the Fee Award.

6. ADMINISTRATION AND NOTICE

6.1 All costs and expenses of administering the Settlement and providing reasonable Notice in accordance with the Preliminary Approval Order shall be paid out of the Settlement Sum.

6.2 Responsibilities of Settlement Administrator

6.2.1 The Settlement Administrator will facilitate the notice process by assisting the Parties in the implementation of the Notice Plan.

6.3 Class Settlement Website

6.3.1 The Settlement Administrator will create and maintain the Class Settlement Website, to be activated within thirty (30) days of Preliminary Approval. The Settlement Administrator's responsibilities will also include securing an appropriate URL to be agreed upon by the Parties. The Class Settlement Website will contain information about the Settlement and case-related documents such as the Settlement Agreement, the Long-Form Notice in the form attached hereto as Exhibit B, subject to Court modification and/or approval, the Claim Form, and the Preliminary Approval Order. Copies of the Summary Notice, Long-Form Notice, and Claim Form translated into Spanish will also be made available on the Settlement Website. Class Members shall have the option to file a claim electronically using the Class Settlement Website.

6.3.2 The Class Settlement Website will terminate (be removed from the internet) and no longer be maintained by the Settlement Administrator thirty (30) days after either (a) the Effective Date or (b) the date on which the Settlement Agreement is terminated or otherwise not approved in full, if the Settlement is terminated or otherwise not approved in full. The Settlement Administrator may destroy documents generated in the administration of the Settlement one year after the void date on settlement checks.

6.3.3 All costs and expenses related to the Class Settlement Website shall be paid out of the Settlement Sum.

6.4 Notice Plan

6.4.1 The Notice shall conform to all applicable requirements of the Federal Rules of Civil Procedure, the U.S. Constitution (including the Due Process Clauses), and any other applicable law, and shall otherwise be in the manner and form agreed upon by the Parties and approved by the Court.

6.4.2 The Parties shall provide the telephone numbers for the Class Members to the Settlement Administrator within five (5) calendar days after the Court enters the Preliminary Approval Order or as soon as reasonably possible.

6.4.3 Subject to Court approval, within thirty (30) days after the Court enters the Preliminary Approval Order, the Settlement Administrator shall send direct notice substantially in the form of the Summary Notice in Exhibit C, as modified and/or approved by the Court, via U.S. Postal Service, to Class Members for

whom the Administrator can identify addresses. The Administrator shall use up to three data vendors to try to identify addresses if necessary.

7. CLAIMS PROCESS

7.1 Submission of Claims. Class Members must timely submit, by mail or online, a valid Claim Form substantially in the form attached as Exhibit A, as modified and/or approved by the Court, by the Claims Deadline. All Claim Forms must be postmarked or submitted to the Settlement Administrator, either in hard copy form or electronically via the Settlement Website, by the Claims Deadline and contain a valid Claim ID. Regardless of the manner in which it is submitted, a valid Claim Form means a Claim Form containing all required information, including a valid, unique claim identification number to be assigned by the Settlement Administrator, which is signed by a Class Member and is timely submitted. Any Claim Form which is not timely submitted shall be denied. In the event a Class Member submits a Claim Form by the Claims Deadline but the Claim Form is not complete, then the Settlement Administrator shall give such Class Member a reasonable opportunity to provide any requested missing information. For any Class Member who submits a Claim Form determined by the Settlement Administrator to be incomplete, the Settlement Administrator may mail a notice directly to such Class Member, notifying him or her of the missing information and providing him or her with an opportunity to cure (the "Cure Notice"). Class Members must cure incomplete claims on or before the Effective Date.

7.2 Claims Processing. The Settlement Administrator shall apply the terms of this Settlement Agreement and the requirements set forth in the Claim Form, and any Claim Form submitted that does not meet the requirements of this Agreement is not eligible to be an Approved Claim. The Settlement Administrator also shall employ reasonable procedures to screen claims for abuse, fraud, or duplication, and shall deny Claim Forms where there is evidence of abuse, fraud, or duplication. The Settlement Administrator's decisions regarding the Claimant's eligibility for a claims payment shall be final, assuming the Settlement Administrator applies reasonable practices to assure that no invalid, incomplete, untimely or fraudulent claims are treated as Approved Claims. The Parties, the Released Parties, and their respective counsel shall have no responsibility or liability whatsoever for the Settlement Administrator's conduct, omissions, or actions.

7.3 Payment of Claims. Within sixty (60) days after the later of (i) the final determination by the Administrator of the number of Approved Claims, and (ii) the Effective Date, or such other date as the Court may set, the Settlement Administrator shall pay from the Settlement Sum all Approved Claims by check made payable to the Class Member submitting each Approved Claim, and shall mail the checks via first-class mail.

7.4 All payments to Class Members via check will state on the face of the check that the check will expire and become null and void unless cashed within one hundred eighty (180) days after the date of issuance. To the extent that any checks to Class Members expire and become null and void, the Settlement Administrator shall distribute the funds associated with those checks on a per claim basis to Class Members who submitted an Approved Claim and who cashed their Settlement Claim Payments. In the event that the Settlement Administration Expenses associated with the redistribution together with the amount to be redistributed would exceed the funds in the Settlement Sum, the amount of the redistribution will be reduced by each Class Member's share of Settlement Administration Expenses associated with the redistribution so that the Settlement Sum is exhausted but not exceeded. Any remaining monies after the redistribution shall be paid to Defendant.

7.5 No decisions by the Settlement Administrator shall be deemed to constitute a finding, admission, or waiver by Defendant as to any matter of fact, law, or evidence having any collateral effect on any Claim hereunder or in any other proceeding or before any other forum or authority. Further, such decisions shall not be submitted to or admissible in any other proceeding or before any other forum or authority.

8. RELEASES

8.1 Upon entry of the Judgment, Representative Plaintiff and each Class Member will be deemed to have, and by operation of the Judgment will have, fully, finally, and forever released, relinquished, and discharged each of the Released Parties from all Released Claims.

8.2 After entering into this Settlement Agreement, Representative Plaintiff or Class Members may discover facts other than, different from, or in addition to, those that they know or believe to be true with respect to the Released Claims. Representative Plaintiff and Class Members expressly waive and fully, finally, and forever settle and release any known or unknown, suspected or unsuspected, contingent or noncontingent claim, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such other, different, or additional facts.

8.3 Upon entry of the Final Approval Order, Representative Plaintiff, and any Class Member who does not Opt Out as set forth in Paragraph 9.4 is hereby barred against continuing or bringing any action against any of the Released Parties for any of the Released Claims, regardless of whether such action was commenced prior to the Final Approval Order. Additionally, Representative Plaintiff and Class Members agree and covenant, and each Class Member will be deemed to have agreed and covenanted, not to sue any of the Released Parties with respect to any of the Released Claims, or otherwise assist others in doing so, and agree to be forever barred from doing so, in any court of law, equity, or any other forum.

9. APPROVAL PROCESS

9.1 Court Approval

9.1.1 Class Counsel shall submit the Agreement together with its Exhibits to the Court and request that the Court grant preliminary approval of the Settlement, issue a Preliminary Approval Order, and schedule a hearing on whether the Settlement should be granted final approval (collectively, “Motion for Preliminary Approval”).

9.1.2 In the Motion for Preliminary Approval, Class Counsel shall request that the Court allow for a period of no less than ninety (90) days between entry of the Preliminary Approval Order and the Final Approval Hearing and that the Court schedule a Final Approval Hearing for a date no less than ninety (90) days from entry of the Preliminary Approval Order.

9.1.3 If the Motion for Preliminary Approval is granted, Class Counsel shall be responsible for asking the Court to grant final approval of the Settlement and to enter a Final Approval Order and Judgment, in accordance with the date set by the Court for the Final Approval Hearing.

9.1.4 If the Court does not enter a Preliminary Approval Order or a Final Approval Order and Judgment or if the Final Approval Order is reversed or vacated, by any court, this Agreement shall terminate and be of no force or effect, except as otherwise set forth in this Agreement, unless the Parties voluntarily agree to modify this Agreement in the manner necessary to obtain Court approval. Notwithstanding any provision of this Agreement, the Parties agree that any decision by any court as to any Fee Award to Class Counsel or any separate payment to the Representative Plaintiff, described in Paragraphs 4.3 and 5.1 above, including any decision by any court to award less than the amounts sought, shall not prevent the Agreement from becoming

effective, prevent Final Judgment from being entered, or provide any grounds for termination of the Agreement or the Settlement.

9.2 Procedures for Objecting to the Settlement

9.2.1 Class Members shall have the right to appear and show cause, if they have any reason why the terms of this Agreement should not be given final approval, subject to each of the sub-provisions contained in this paragraph. Any objection to this Settlement Agreement, including any of its terms or provisions, must be in writing, and mailed to the Settlement Administrator at *Paradise Exteriors TCPA Settlement*, c/o ____, [Address], [City] [State], [Zip Code], by no later than the Opt-Out Deadline. Class Members may object either on their own or through an attorney hired at their own expense.

9.2.2 Any objection regarding or related to the Agreement shall contain a caption or title that identifies it as “Objection to Class Settlement in *Dumas v. Paradise Exteriors LLC*,” and also shall contain the following information: (i) the objector’s name, address, and telephone number; (ii) the name, address, and telephone number of any attorney for the objector with respect to the objection; (iii) the factual basis and legal grounds for the objection, including any documents sufficient to establish the basis for his or her standing as a Class Member, including the phone number(s) at which he or she received call(s) or text(s) covered by this Settlement; and (iv) identification of the case name, case number, and court for any prior class action lawsuit in which the objector and the objector’s attorney (if applicable) has objected to a proposed class action settlement. If an objecting party chooses to appear at the hearing, no later than the Opt-Out Deadline, a notice of intention to appear, either in person or through an attorney, must be filed with the Court and list the name, address, and telephone number of the person and attorney, if any, who will appear. The objection must be mailed to the Settlement Administrator at *Paradise Exteriors TCPA Settlement*, c/o ____, [Address], [City] [State], [Zip Code], by no later than the Objection Deadline.

9.2.3 A Class Member who appears at the Final Approval Hearing, either personally or through counsel, may be permitted to argue only those matters that were set forth in the timely and validly submitted written objection filed by such Class Member. No Class Member shall be permitted to raise matters at the Final Approval Hearing that the Class Member could have raised in his/her written objection, but failed

to do so, and all objections to the Settlement Agreement that are not set forth in a timely and validly submitted written objection will be deemed waived.

9.2.4 If a Class Member wishes to present witnesses or evidence at the Final Approval Hearing in support of a timely and validly submitted objection, all witnesses must be identified in the objection, and true and correct copies of all supporting evidence must be appended to, or filed and served with, the objection. Failure to identify witnesses or provide copies of supporting evidence in this manner waives any right to introduce such testimony or evidence at the Final Approval Hearing. Representative Plaintiff or Defendant or both may take discovery regarding any objector, their attorney (if applicable), and the basis of any objection, subject to Court approval.

9.2.5 Any Class Member who fails to comply with the applicable provisions of the preceding paragraphs concerning their objection shall waive and forfeit any and all rights he or she may have to object, appear, present witness testimony, and/or submit evidence, shall be barred from appearing, speaking, or introducing any testimony or evidence at the Final Approval Hearing, shall be precluded from seeking review of this Agreement by appeal or other means, and shall be bound by all the terms of this Agreement and by all proceedings, orders and judgments in the Litigation. By filing an objection, objectors and their counsel submit to the jurisdiction of the Court for all purposes, including but not limited to subpoenas and discovery.

9.3 Right to Respond to Objections

9.3.1 Class Counsel and the Parties shall have the right, but not the obligation, to respond to any objection no later than seven (7) days prior to the Final Approval Hearing. The Party so responding shall file a copy of the response with the Court, and shall serve a copy, by hand, overnight delivery, or email to the objector (or counsel for the objector).

9.4 Opt Outs

9.4.1 Any Class Member who does not wish to participate in this Settlement must write to the Settlement Administrator stating an intention to be “excluded” from this Settlement. This written request for exclusion must be sent via first class United States mail to the Settlement Administrator at the address set forth in the Notice and postmarked no later than the Opt-Out Deadline. A request for exclusion must be signed

by the Class Member, and must include the Class Member's name, address, and the telephone number that allegedly received a call made by or on behalf of Defendant during the Settlement Class Period, and must clearly state that the Person wishes to be excluded from the Litigation and the Agreement. A request for exclusion that does not include all of this information, or that is sent to an address other than that designated in the Notice, or that is not postmarked within the time specified, shall be invalid, and the Person serving such a request shall be a member of the Class and shall be bound as a Class Member by the Court's Orders in this Litigation and by this Agreement, if approved. The request for exclusion must be personally signed by the Class Member. So-called "mass" or "class" opt-outs shall not be allowed.

9.4.2 Any Person in the Class who submits a request for exclusion may not file an objection to the Settlement. If a Class Member submits a written request for exclusion pursuant to Paragraph 9.4 above, he or she shall be deemed to have complied with the terms of the opt-out procedure and shall not be bound by the Agreement if approved by the Court.

9.4.3 After Notice is disseminated and at least fifteen (15) days prior to the Final Approval Hearing, the Parties shall request and seek to obtain from the Court a Final Approval Order and Judgment, which will (among other things):

- (i) find that the Court has personal jurisdiction over all Class Members and that the Court has subject-matter jurisdiction to approve the Agreement, including all exhibits hereto;
- (ii) approve the Settlement Agreement and the proposed Settlement as fair, reasonable, and adequate as to, and in the best interests of, Class Members; direct the Parties and their counsel to implement and consummate the Agreement according to its terms and provisions; and declare the Agreement to be binding on, and have preclusive effect on all pending and future lawsuits or other proceedings maintained by or on behalf of Representative Plaintiff and the Releasing Parties;
- (iii) find that 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 Florida Rules of Civil Procedure, the United States and Florida Constitutions, and the rules of the Court;

- (iv) dismiss the Action (including all individual claims and Class Member claims asserted therein) on the merits and with prejudice, without fees or costs to any Party, except as provided in the Settlement Agreement; incorporate the releases set forth above in Paragraph 8, make those releases effective as of the date of the Final Approval Order and Judgment; and
- (v) forever discharge the Released Parties as set forth herein; permanently bar and enjoin all Class Members from filing, commencing, continuing, prosecuting, intervening in, or participating (as class members or otherwise) in, any lawsuit or other action in any jurisdiction related to the Released Claims.

10. TAXES

10.1 Class Members, Representative Plaintiff, and Class Counsel shall be responsible for paying any and all federal, state, and local taxes due on any payments made to them pursuant to the Settlement Agreement.

10.2 Expenses Paid from Fund. Any expenses reasonably incurred by the Claims Administrator in carrying out the duties, including fees of tax attorneys and accountants, will be paid from the Settlement Sum.

10.3 Responsibility for Taxes on Distribution. Any Person that receives a distribution from the Settlement Sum will be solely responsible for any taxes or tax-related expenses owed or incurred by reason of that distribution. Such taxes and tax-related expenses will not be paid from the Settlement Sum.

10.4 Payment Not Directed By or Incurred to Government: For purposes of assessing deductibility of any amounts to be paid by Defendant under the Settlement Agreement, it is expressly acknowledged by the Parties that such payments are not made or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or governmental entity in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law, as contemplated by 26 U.S.C. § 162(f)(1).

10.5 Defendant is Not Responsible. In no event will Defendant or any of the other Released Parties have any responsibility or liability for taxes or tax-related expenses arising in connection with the payment or distribution of the Settlement Sum to Representative Plaintiff, Class Members, Class Counsel or any other person or entity. The Class Members shall indemnify and hold Defendant and other Released Parties harmless—through the Settlement Sum—for all such taxes and tax-related expenses.

11. CONDITIONS FOR EFFECTIVE DATE; EFFECT OF TERMINATION

11.1 The Effective Date of this Agreement shall be the date defined in Paragraph 1.1.16.

11.2 Performance of the obligations set forth in this Agreement is subject to all of the following material conditions:

- (A) execution of this Agreement by Defendant, Representative Plaintiff, and Class Counsel.
- (B) the granting of preliminary approval by the Court.
- (C) sending of the notices described herein.
- (D) the granting of final approval by the Court.
- (E) execution and entry of Judgment by the Court.
- (F) the occurrence of all other circumstances necessary for the Effective Date to arise.

11.3 The Parties hereby covenant and agree to cooperate reasonably and in good faith for the purpose of achieving occurrence of the conditions set forth above, including, without limitation, timely filing of all motions, papers and evidence necessary to do so, and refraining from causing or encouraging directly or indirectly any appeal or petition for writ proceedings by third parties seeking review of any order contemplated by this Agreement. Class Counsel represent and warrant that they have authority to take all such actions required of them pursuant to this Agreement, and that by doing so they are not in breach or violation of any agreement with Representative Plaintiff or any third party.

11.4 If this Agreement is not approved by the Court or the Settlement is terminated or fails to become effective in accordance with the terms of this Agreement, the Settling Parties will be restored to their respective positions in the Litigation as of December 14, 2023. In such event, the terms and provisions of this Agreement will have no further force and effect with respect to the Settling Parties and will not be used in this Litigation

or in any other proceeding for any purpose, and any Judgment or order entered by the Court in accordance with the terms of this Agreement will be treated as vacated.

11.5 The Parties agree to request a stay of the Litigation pending approval of the Settlement.

12. MISCELLANEOUS PROVISIONS

12.1 Cooperation of the Parties: The Parties acknowledge that it is their intent to consummate this Agreement, and they agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Agreement and to exercise their best efforts to accomplish the foregoing terms and conditions of this Agreement. The Parties agree that they will not solicit, facilitate, or assist in any way, requests for exclusions or objections by putative or actual Class Members. Class Counsel recognize that they have an obligation to support the Settlement and to seek the Court's approval of its terms. Class Counsel will abide by all applicable and governing ethical rules, opinions, and obligations precluding their representation of opt-outs.

12.2 Resolution of Dispute without Admission: The Parties intend the Settlement to be a final and complete resolution of all disputes between them with respect to the Litigation. The Settlement covers claims that are contested and will not be deemed an admission by any Settling Party as to the merits of any claim or defense.

12.3 Use In Subsequent Proceedings: Neither this Agreement nor the Settlement, nor any act performed or document executed pursuant to or in furtherance of this Agreement or the Settlement is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claims, or of any wrongdoing or liability of Defendant; or is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of Defendant in any civil, criminal, or administrative proceeding in any court, administrative agency or other tribunal. Any party to this Litigation may file this Agreement and/or the Judgment in any action that may be brought against it in order to support any defense or counterclaim, including without limitation those based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

12.4 Confidential Information: All agreements made and orders entered during the course of the Litigation relating to the confidentiality of information will survive this Agreement. All class member

identification information supplied to, or generated by, the Administrator in furtherance of this Agreement will be treated as confidential.

12.5 Incorporation of Exhibits: Any and all Exhibits to this Agreement are material and integral parts hereof and are fully incorporated herein by this reference.

12.6 Modification: This Agreement may be amended or modified only by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest.

12.7 Integration: This Agreement and any Exhibits attached hereto constitute the entire agreement among the Parties, and no representations, warranties, or inducements have been made to any Party concerning this Agreement or its Exhibits other than the representations, warranties, and covenants covered and memorialized in such documents. Except as otherwise provided herein, the Parties will bear their own respective costs.

12.8 Class Counsel's Authority: Class Counsel, on behalf of the Class, are expressly authorized by Representative Plaintiff to take all appropriate action required or permitted to be taken by the Class pursuant to this Agreement to effectuate its terms, and are expressly authorized to enter into any modifications or amendments to this Agreement on behalf of the Class.

12.9 Parties' Authority: Each counsel or other Person executing this Agreement or any of its Exhibits on behalf of any Party hereby warrants that such Person has the full authority to do so.

12.10 Counterparts: This Agreement may be executed in one or more counterparts. All executed counterparts and each of them will be deemed to be one and the same instrument.

12.11 No Prior Assignments: Representative Plaintiff and Class Counsel represent, covenant, and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged except as set forth herein.

12.12 Binding on Assigns: This Agreement will be binding upon, and inure to the benefit of, the successors and assigns of the Parties and the Class Members.

12.13 Interpretation: None of the Parties, or their respective counsel, will be deemed the drafter of this Agreement or its Exhibits for purposes of construing the provisions thereof. The language in all parts of

this Agreement and its Exhibits will be interpreted according to its fair meaning, and will not be interpreted for or against any of the Parties as the drafter thereof.

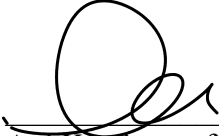
12.14 Governing Law: This Agreement and any Exhibits hereto will be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of Florida without giving effect to that state's choice-of-law principles.

12.15 Headings: The headings used herein are used for the purpose of convenience only and are not meant to have legal effect.

12.16 No Waiver: The waiver by one Party of any breach of this Agreement by any other Party shall not be deemed as a waiver of any other prior or subsequent breaches of this Agreement.

12.17 Publicity and Confidentiality. Neither the Parties nor their counsel will initiate any public statement intended to be disseminated through the press, internet, television, radio, or other media that includes an opinion or editorial comment about the effect of the Settlement or the merits of any Parties' positions in the Litigation. This provision does not apply to any communications between any Class Member and Class Counsel or any communications with the Court. Defendant shall be permitted to respond to requests for comment—in its sole discretion—if any such requests are initiated.

IN WITNESS WHEREOF, the Parties have executed this Agreement:

Dated:	<hr/> on Behalf of Defendant Paradise Exteriors LLC
Dated: <i>01/16/24</i>	<i>Ryan Dumas</i> <hr/> Ryan Dumas as Representative Plaintiff
Dated: 1/17/2024	 <hr/> Avi Kaufman of Kaufman P.A. as Class Counsel

this Agreement and its Exhibits will be interpreted according to its fair meaning, and will not be interpreted for or against any of the Parties as the drafter thereof.

12.14 Governing Law: This Agreement and any Exhibits hereto will be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of Florida without giving effect to that state's choice-of-law principles.

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IN WITNESS WHEREOF, the Parties have executed this Agreement:

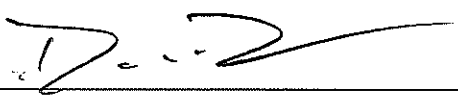
Dated: 1-16-23	 _____ on Behalf of Defendant Paradise Exteriors LLC
Dated:	 _____ Ryan Dumas as Representative Plaintiff
Dated:	 _____ Avi Kaufman of Kaufman P.A. as Class Counsel

EXHIBIT A

CLAIM FORM

Section I - Instructions

This Form must be received by the Settlement Administrator no later than [Month] [Day], [Year].

This Claim Form may be submitted in one of two ways:

1. Electronically through www.[xxx].com.
2. Mail to: *Paradise Exteriors TCPA Settlement*, c/o ____, [Address], [City] [State], [Zip Code].

To be effective as a Claim under the proposed settlement, this form must be completed, signed, and sent, as outlined above, **no later than [Month] [Day], [Year]**. 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.

Section II - Class Member Information

Claimant Name (Required)

[Grid for Claimant Name]

Claimant Identification Number (Required):

[Grid for Claimant Identification Number]

Current Contact Information

Street Address (Required):

[Grid for Street Address]

City (Required):

State (Required)

Zip Code (required)

[Grid for City, State, and Zip Code]

Email (optional)

[Grid for Email]

Preferred Phone Number (Required)

[Grid for Preferred Phone Number]

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 and that you received at least one call from Paradise Exteriors.

Section III – Confirmation of Class Membership

Telephone Number(s) for which you were the regular user or subscriber from November 1, 2021 through April 30, 2022 at which you received one or more calls from Paradise Exteriors:

[Grid for Telephone Numbers]

Section IV – Required Affirmations

IF SUBMITTED ELECTRONICALLY:

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.\[xxxx\].com](http://www.[xxxx].com) or by writing the Settlement Administrator at the email address [\[xxxx\]@\[xxxx\].com](mailto:[xxxx]@[xxxx].com) or the postal address [Address], [City], [State] [Zip Code]. Checking this box constitutes my electronic signature on the date of its submission.

IF SUBMITTED BY U.S. MAIL:

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.\[xxxx\].com](http://www.[xxxx].com) or by writing the Settlement Administrator at the email address [\[xxxx\]@\[xxxx\].com](mailto:[xxxx]@[xxxx].com) or the postal address [Address], [City], [State] [Zip Code].

Dated: _____

Signature: _____

SETTLEMENT ADMINISTRATOR ADDRESS (where to send the completed form if submitting by mail):

Paradise Exteriors TCPA Settlement, c/o _____, [Address], [City], [State] [Zip Code].

EXHIBIT B

If you received a telemarketing call from Paradise Exteriors, you may be entitled to a payment 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 Settlement¹ of a class action lawsuit claiming that Defendant Paradise Exteriors LLC (“Paradise Exteriors”) violated a federal law called the Telephone Consumer Protection Act (“TCPA”) by making pre-recorded calls to cellular telephone numbers. Paradise Exteriors denies that it violated the law.
- The lawsuit is called *Ryan Dumas v. Paradise Exteriors LLC*, Case. No 50-2023-CA-016414-XXXXA-MB. The Court has decided that this settlement should be a class action on behalf of a Class, or group of people that could include you, and a Settlement has been reached affecting this Class.
- The Settlement offers payments to Class Members who file valid Claims.
- Your legal rights are affected whether you act or do not act. Read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
SUBMIT A CLAIM FORM	If you are a member of the Class, you must submit a completed Claim Form to receive payment of up to \$575. If the Court approves the Settlement and it becomes final and effective, and you remain in the Class, you will receive your payment by check.
EXCLUDE YOURSELF	You may request to be excluded from the Settlement and if you do, you will receive no benefits from the Settlement.
OBJECT	Write to the Court and appear at a hearing if you do not like the Settlement.
DO NOTHING	You will not receive a payment if you fail to timely submit a completed Claim Form, and you will give up your right to bring your own lawsuit against Paradise Exteriors about the claims in this case.

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

WHAT THIS NOTICE CONTAINS

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

1. Why is there a notice?
2. What is this litigation about?
3. What is the Telephone Consumer Protection Act?
4. Why is this a class action?
5. Why is there a settlement?

WHO IS PART OF THE SETTLEMENT.....PAGE 4

6. Who is included in the Settlement?
7. What if I am not sure whether I am included in the Settlement?

THE SETTLEMENT BENEFITS.....PAGE 4

8. What does the Settlement provide?
9. How do I file a Claim?
10. When will I receive my payment?

EXCLUDING YOURSELF FROM THE SETTLEMENT.....PAGE 5

11. How do I get out of the Settlement?
12. If I do not exclude myself, can I sue Defendant for the same thing later?
13. What am I giving up to stay in the Class?
14. If I exclude myself, can I still get a payment?

THE LAWYERS AND THE PLAINTIFF REPRESENTING YOU.....PAGE 6

15. Do I have a lawyer in the case?
16. Should I get my own lawyer?
17. How will the lawyers be paid?

OBJECTING TO THE SETTLEMENT.....PAGE 6

18. How do I tell the Court I do not like the Settlement?
19. What is the difference between objecting and asking to be excluded?

THE FINAL APPROVAL HEARING.....PAGE 7

20. When and where will the Court decide whether to approve the Settlement?
21. Do I have to attend the hearing?
22. May I speak at the hearing?

IF YOU DO NOTHING.....PAGE 7

23. What happens if I do nothing at all?

GETTING MORE INFORMATION.....PAGE 7

24. How do I get more information?

BASIC INFORMATION

1. Why was this notice issued?

The Court authorized this notice because you have a right to know about a proposed Settlement of a class action lawsuit. You have legal rights and options that you may exercise before the Court decides whether to give final approval to the Settlement, as described below. The Circuit Court of the Fifteenth Judicial Circuit for Palm Beach County, Florida is overseeing this class action. The lawsuit is called *Dumas v. Paradise Exteriors, LLC*, Case No. 50-2023-CA-016414-XXXA-MB.

2. What is this lawsuit about?

Plaintiff Dumas claims that Paradise Exteriors violated the Federal Telephone Consumer Protection Act (TCPA) when they made telemarketing calls to cellular telephone numbers using pre-recorded messages without consent. Paradise Exteriors denies these allegations.

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

In a class action, one or more people called “class representatives” (in this case, Ryan Dumas) sue on behalf of a group of people who may have similar claims. The people together are a “class” or “class members.” The individual who sues—and all the class members like them—is called the plaintiff. The company that they sue (in this case, Paradise Exteriors) is called the Defendant. In a class action, the Court resolves the issues for all class members, except for those who exclude themselves from the class.

4. Why is this lawsuit a class action?

The Court decided that this lawsuit can be a class action because it meets the requirements of Florida Rule of Civil Procedure 1.220(b)(2) and (b)(3), which governs class actions in Florida state courts.

5. Why is there a settlement?

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

WHO IS PART OF THE CLASS AND SETTLEMENT

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

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

The Settlement includes the following class that the Court certified: “All users or subscribers to cellular telephone numbers that were contacted by Defendant from November 1, 2021 through April 30, 2022 after having been supplied as referrals by existing customers of Paradise Exteriors. For purposes of settlement the parties estimate the class consists of approximately 2,435 individuals.”

You may be part of the class if you received a telemarketing call from Paradise Exteriors and:

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

your cell phone number against the calling records, please call the Settlement Administrator at [###-#####] and provide your name, cell phone number, and a current email.

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

If you are still not sure whether you are included, you can call the *Dumas v. Paradise Exteriors, LLC* Settlement Administrator at [###-#####]. Or you can get free help by calling the lawyers in this case at the phone number listed in question 24.

THE SETTLEMENT BENEFITS

8. What does the settlement provide?

Paradise Exteriors has agreed to a Settlement Sum of \$1,400,000. The Settlement Sum will be used to pay all settlement costs, including settlement administration costs, any attorneys' fees, costs, and expenses awarded to Class Counsel by the Court, and all Approved Claims. Members of the Class who submit Approved Claims shall receive an amount not to exceed five hundred and seventy five dollars (\$575.00), less each Class Member's share of any attorneys' fees and Expenses. In the event that claims exceed a certain threshold the amount will also be reduced by each Class Member's share of notice and administration costs. Only Approved Claims will be paid. Only one claim per Class Member per telephone number will be validated and deemed an Approved Claim. There may be tax consequences to the Class Member associated with this recovery.

9. How do I file a claim?

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

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

Paradise Exteriors Settlement Administrator
PO Box XXX, City, State XXXXX-XXXX

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

10. When will I receive my payment?

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

EXCLUDING YOURSELF FROM SETTLEMENT

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

11. How do I get out of the settlement?

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

Paradise Exteriors Settlement Administrator
PO Box XXX
City, State XXXXX-XXXX

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

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

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

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

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

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

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

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

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

THE LAWYERS AND THE PLAINTIFF REPRESENTING YOU

15. Do I have a lawyer in the case?

The Court has appointed Avi Kaufman to represent the Class. He is called “class counsel.” He is experienced in handling similar class action cases. More information about these lawyers, their law firms, and their experience is available at <https://kaufmanpa.com/>.

16. Should I get my own lawyer?

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

17. How will the lawyers be paid?

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

OBJECTING TO THE SETTLEMENT

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

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

- 1) A caption or title that identifies it as “Objection to Class Settlement in *Dumas v. Paradise Exteriors, LLC*”
- 2) Your name, address, and telephone number;
- 3) The name, address, and telephone number of any attorney for you with respect to the objection;
- 4) The factual basis and legal grounds for the objection, including any documents sufficient to establish the basis for your standing as a Class Member, including the phone number(s) at which you received call(s) covered by this Settlement;
- 5) Identification of the case name, case number, and court for any prior class action lawsuit in which you and/or your attorney (if applicable) has objected to a proposed class action settlement; and
- 6) Submit yourself immediately to discovery and/or deposition by the parties.

If you wish to object, you must mail your objection to:

Paradise Exteriors Settlement Administrator
PO Box XXX
City, State XXXXX-XXXX

Your objection must be postmarked by **DATE**.

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

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

THE FINAL APPROVAL HEARING

The Court will hold a hearing to decide whether to approve the Settlement and any requests for attorneys’ fees and expenses (“Final Approval Hearing”).

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

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

21. Do I have to attend the hearing?

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

22. May I speak at the hearing?

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

IF YOU DO NOTHING

23. What happens if I do nothing at all?

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

GETTING MORE INFORMATION

24. Where do I get more information?

For more information, call the Settlement Administrator at 1-____-____-____, write to the Settlement Administrator, [address], or call Class Counsel at 1-____-____-____. For a complete, definitive statement of the Settlement terms, refer to the Settlement Agreement at www.xxxxxTCPAsettlement.com.

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

EXHIBIT C²

²The parties will coordinate in good faith to agree upon the final form of the mailer.

If you received a telemarketing call from Paradise Exteriors, you may be entitled to a payment 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 Settlement³ of a class action lawsuit claiming that Defendant Paradise Exteriors, LLC (“Paradise Exteriors”) violated a federal law called the Telephone Consumer Protection Act (“TCPA”) by making pre-recorded calls to cellular telephone numbers. Paradise Exteriors denies that it violated the law.

The lawsuit is called *Ryan Dumas v. Paradise Exteriors LLC*, No. 50-2023-CA-016414-XXXXA-MB. The Circuit Court of the Fifteenth Judicial Circuit for Palm Beach County, Florida 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 cellular telephone numbers that were contacted by Defendant using a prerecorded voice message from November 1, 2022 through April 30, 2022 after having been supplied as referrals by existing customers of Paradise Exteriors. For purposes of settlement the parties estimate the class consists of approximately 2,435 individuals.”

You are receiving this notice because your name and/or phone number appeared in calling records obtained for this case.

What are the Settlement Terms? Paradise Exteriors has agreed to a Settlement Sum of \$1,400,000. The Settlement Sum will be used to pay all settlement costs, including settlement administration costs, any attorneys’ fees (up to one third of the Settlement Sum), costs, and expenses awarded to Class Counsel by the Court, and all Approved Claims. Members of the Class who submit Approved Claims shall receive an amount not to exceed five hundred and seventy five dollars (\$575.00), less each Class Member’s share of any attorneys’ fees and expenses. In the event that claims exceed a certain threshold the amount will also be reduced by each Class Member’s share of notice and administration costs. Only Approved Claims will be paid. Only one claim per Class Member per telephone number will be validated and deemed an Approved Claim. There may be tax consequences to the Class Member associated with this recovery.

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.xxxxxTCPAsettlement.com or by email to

³ Capitalized terms herein have the same meanings as those defined in the Settlement Agreement.

xxxx@xxxxx.com. If you send in a Claim Form by regular mail, it must be postmarked on or before **DATE**. The deadline to file a Claim Form online or by email is **11:59 p.m. PST on DATE**.

What are my Other Options? If you do not want to be legally bound by the Settlement, you must exclude yourself by **DATE** 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 **DATE** by complying with the objection procedures detailed in the Settlement. The Court will hold a Final Approval Hearing on **DATE** 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.xxxxxTCPAsettlement.com

(xxx) xxx-xxxx

[CLAIM FORM WITH PREPAID POSTAGE ATTACHED]

EXHIBIT 2

**IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA**

RYAN DUMAS, on behalf of himself and
others similarly situated,

Plaintiff,

v.

Case No. 50-2023-CA-016414-XXXXA-MB

PARADISE EXTERIORS, LLC

Defendant.

**DECLARATION OF AVI R. KAUFMAN
IN SUPPORT OF PLAINTIFF’S MOTION FOR
FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

Avi R. Kaufman declares as follows:

1. I am the attorney designated as Class Counsel for Plaintiff under the Settlement Agreement (“Settlement” or “Agreement”) entered into with Defendant Paradise Exteriors, LLC¹ I submit this declaration in support of Plaintiff’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. Representative Plaintiff Ryan Dumas and Defendant Paradise Exteriors, LLC have reached a class action settlement agreement resulting in a \$1,400,000 Settlement for the benefit of the Class, which is equal to \$575 per Class Member. Moreover, Defendant has agreed to meaningful remedial relief where it has agreed to no longer make telemarketing calls to individuals whose telephone numbers they receive as part of referrals. This is an excellent result and adds to the total economic value of the Settlement to the Class and society.

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

3. Plaintiff Ryan Dumas filed the complaint against Defendant in this action asserting that Paradise Exteriors, LLC violated the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227, et seq. by making unsolicited prerecorded calls. The parties committed significant resources to pursuing discovery in this action, including: the exchange of written discovery, followed by extensive meet and confers resulting in Defendant’s service of amended responses, Plaintiff’s issuance of a third-party subpoena to Five9 seeking call logs for Defendant’s prerecorded calls, and, ultimately, Defendant’s production of class-wide call records. Plaintiff retained an expert to conduct a thorough analysis of Defendant’s call and other records and identify consumers whose cellular telephone numbers Defendant obtained as referrals and then called using pre-recorded voice messages. The parties also respectively noticed and prepared to take/defend the depositions of Defendant’s employee in charge of utilizing the dialing system and Plaintiff but settled in principle in the days prior to the depositions.

4. Over the course of this action, the parties also committed significant resources to evaluating and ultimately reaching settlement. The Parties attended a full day in person mediation with Samuel Heller of Upchurch Watson White & Max. While the mediation ended in an impasse, after additional discovery and the exchange of expert reports, the parties participated in a second day long mediation with Hon. David Jones (Ret.) of Resolute Systems, LLC. The parties’ negotiations continued for nearly another month and resulted in this class action settlement in principle.

5. The Parties recognize and acknowledge the expense and length of continued proceedings that would be necessary to prosecute the Litigation through trial and appeals. Class Counsel has considered the strength of Defendant’s defenses and Defendant’s financial condition. Class Counsel does not believe Defendant was in a position in the future to withstand a greater

judgment than the \$1.4 million in monetary relief and the additional value from the remedial relief created by this settlement. Class Counsel has also considered the delays, uncertain outcomes, and risks of litigation generally, especially in complex actions such as this one.

6. Class 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, Representative Plaintiff and Class Counsel have determined that the Settlement is in the best interests of Representative Plaintiff and the Class.

7. Relatedly, there is considerable ongoing risk that the ever-changing TCPA and consumer law landscape could ultimately undermine the Class's claims in part or in whole.

8. The Released Claims are narrowly defined and include only claims that could have been brought in the Litigation relating to calling conduct. Under the Settlement Agreement, Settlement Class Members are treated identically insofar as it relates to Notice, Claim Forms, damages, and all other material ways. Additionally, the scope of the release is identical as to all Class Members, and it is narrowly tailored to the types of claims at issue in the case.

9. The Court should finally certify the Class as it continues to meet all the requirements of Rule 1.220(a). Namely, (1) there are approximately two thousand class members who were identified based on an expert analysis of call records produced by the Defendant (numerosity), (2) Plaintiff has alleged questions of fact and law common to the Class, including whether Defendant violated the TCPA by making pre-recorded calls to cellular telephone numbers (commonality), (3) Plaintiff's claims and interest in the settlement are the same as class members' claims and Plaintiff is not subject to any unique affirmative defenses as Plaintiff's cellular telephone number was obtained as a referral by Defendant and then called using a pre-

recorded voice message (typicality), and (4) Plaintiff and Class Counsel have zealously litigated the claim, including by conducting first party and third party discovery, engaging an expert to conduct a thorough analysis of Defendant's records, and participating in two full day mediations; secured full relief; and have no interests antagonistic to the class (adequacy). As to Rule 1.220(b)(3), pursuant to the terms of the Settlement, (1) there are no individual issues precluding class treatment as Defendant obtained all Class Members' cellular telephone numbers as referrals and then called them using prerecorded voice messages (predominance), and (2) class treatment is the best method of adjudication without the need for numerous (and duplicative) individual cases of limited individual value (superiority). A resolution of the action in the manner proposed by the Settlement Agreement is superior to other available methods for a fair and efficient adjudication of this action.

10. The Settlement was the result of serious, informed, non-collusive negotiations, has no obvious deficiencies, and does not improperly grant preferential treatment to any segments of the class. Settlement here is the result of extensive, arm's-length negotiations between experienced attorneys who are familiar with class action litigation and with the legal and factual issues of this case with the benefit of having conducted contentious litigation, including extensive first and third party discovery, document review, and expert work. As such, Class Counsel was in an appropriate position to evaluate the strengths and weaknesses of the Class's claims and Defendant's defenses, as well as the range of potential recoveries if the action proceeded.

11. The Court entered the Preliminary Approval Order on June 13, 2024. Both before and after that date, the Parties have worked diligently with the Settlement Administrator to effectuate the terms of the Settlement Agreement. The Parties agree that notice was sufficiently provided to the Class. The Notice Plan was designed to directly reach a high percentage of Class

Members. Specifically, the direct mailed notice reached more than 90% of the Class, and the reach was further enhanced by the Settlement website, and the Settlement hotline. The deadline for Class Members to take action with regard to the Settlement in this matter is September 11, 2024. As of August 5, 2024, 100% of Class Members are participating in the Settlement—as not a single Class Member has requested exclusion from or objected to the Settlement.

12. Class Counsel have extensive experience and expertise prosecuting complex class actions, and are particularly experienced in the litigation, certification, and settlement of nationwide TCPA class action cases.

13. Since 2008, the attorneys of Kaufman P.A. have worked on consumer class action cases. To date, not including this Settlement, Class Counsel have recovered over \$100 million in TCPA class action settlements for the benefit of consumers. Kaufman P.A.'s attorneys have also successfully recovered millions of dollars in settlements and judgments for plaintiffs in breach of contract actions in the media, real estate, fashion, healthcare, telecommunications, and banking industries.

14. I have a degree in government from Harvard University and a JD from Georgetown University Law Center, and have been practicing law for over ten years. For more than five years after graduation, I was a litigation associate at the law firm of Carlton Fields in its national class action and commercial litigation practice groups. During that time, I represented plaintiffs and defendants in various types of individual and class litigation, including securities and TCPA class actions. In 2016, I joined the law firm of Kopelowitz Ostrow Ferguson Weiselberg Gilbert as a partner to work exclusively on consumer class actions. From 2016 until January 2018, when I departed KOFWG to start my own law firm, I represented plaintiffs in class actions arising from products defects, illegal payday loans, false advertising, and TCPA

violations, including as lead counsel in a TCPA class action against CITGO Petroleum Corp. that settled for \$8.3 million in 2017.

15. I am a member of the Florida bar, and am admitted to practice in all federal district courts in Florida and in the Eleventh Circuit. I am also admitted to practice in the Eastern District of Wisconsin, Eastern District of Michigan, Northern District of Illinois, District of Colorado, Western District of Arkansas, Central District of Illinois, and the Third Circuit.

16. Rachel E. Kaufman, Esq. has degrees in communications and philosophy from Northwestern University and a JD from Boston University School of Law. Prior to joining Kaufman P.A., Rachel worked at Lash & Goldberg in its commercial litigation practice and Epstein, Becker & Green in its class action, commercial litigation, and healthcare practices. Rachel is a member of the California, Florida, and Washington, D.C. bars. Rachel is also admitted to practice in all federal district courts in California, the Southern and Middle Districts of Florida, the Eleventh Circuit and the Ninth Circuit.

17. Since starting Kaufman P.A., I have focused almost exclusively on TCPA class actions, litigating in various jurisdictions across the country. Among other cases, our firm has been appointed class counsel in the following TCPA cases:

- *Broward Psychology, P.A. v. SingleCare Services, LLC* (Fla. Cir. Ct. 2019), a Florida Telephone Consumer Protection Act class action resulting in a \$925,110 class wide settlement.
- *Van Elzen v. Educator Group Plans, et. al.* (E.D. Wis. 2019), a nationwide Telephone Consumer Protection Act class action resulting in a \$900,000 class wide settlement.
- *Halperin v. YouFit Health Clubs, LLC* (S.D. Fla. 2019), a nationwide Telephone Consumer Protection Act class action resulting in a \$1.4 million class wide settlement.
- *Armstrong v. Codefied Inc.* (E.D. Cal. 2019), a nationwide Telephone Consumer Protection Act class action resulting in a \$2.2 million class wide settlement.

- *Itayim v. CYS Group, Inc.* (S.D. Fla. 2020), a Florida Telephone Consumer Protection Act class action resulting in a \$492,250 class wide settlement.
- *Bulette v. Western Dental, et al.* (N.D. Cal. 2020), a nationwide Telephone Consumer Protection Act class action resulting in a \$9.7 million class wide settlement.
- *Donde v. Freedom Franchise Systems, LLC et al.* (S.D. Fla. 2020), a nationwide Telephone Consumer Protection Act class action resulting in a \$948,475.50 class wide settlement.
- *Izor v. Abacus Data Systems, Inc.* (N.D. Cal. 2020), a nationwide Telephone Consumer Protection Act class action resulting in a \$1.95 million class wide settlement.
- *Fitzhenry v. Independent Home Products, LLC* (D.S.C. 2020), a nationwide Telephone Consumer Protection Act class action resulting in a \$5.16 million class wide settlement.
- *Judson v. Goldco Direct LLC* (C.D. Cal. 2020), a nationwide Telephone Consumer Protection Act class action resulting in a \$1.5 million class wide settlement.
- *Hicks v. Houston Baptist University* (E.D.N.C. 2021), a nationwide Telephone Consumer Protection Act class action settlement resulting in a \$375,000 class wide settlement.
- *Lalli v. First Team Real Estate* (C.D. Cal. 2021), a nationwide Telephone Consumer Protection Act class action settlement resulting in a \$478,500 class wide settlement.
- *Fitzhenry, et al. v. Safe Streets USA LLC, et al.* (E.D.N.C. 2021), a nationwide Telephone Consumer Protection Act class action settlement resulting in a \$1.5 million class wide settlement.
- *Beiswinger v. West Shore Home LLC* (M.D. Fla. 2022), a nationwide Telephone Consumer Protection Act class action settlement resulting in a \$1,347,500 class wide settlement.
- *Bumpus, et al. v. Realty Brokerage Group LLC* (N.D. Cal. 2022), appointed class counsel in a contested nationwide Telephone Consumer Protection Act class action.
- *Wright, et al. v. eXp Realty, LLC* (M.D. Fla. 2022), appointed class counsel in a contested nationwide Telephone Consumer Protection Act class action, ultimately resulting in a \$26.91 million class wide settlement.
- *Kenneth A. Thomas MD, LLC v. Best Doctors, Inc.* (D. Mass. 2022), a nationwide Telephone Consumer Protection Act class action settlement resulting in a \$738,375 class wide settlement.
- *Miller v. Bath Saver, Inc., et al.* (M.D. Penn. 2022), a nationwide Telephone Consumer Protection Act class action settlement resulting in a \$1,950,000 class wide settlement.
- *DeShay v. Keller Williams Realty, Inc.* (Fla. Cir. Ct. 2023), a nationwide Telephone Consumer Protection Act class action resulting in a \$40 million class wide settlement.

- *Taylor v. Cardinal Financial Company, LP* (M.D. Fla. 2023), a nationwide Telephone Consumer Protection Act class action settlement resulting in a \$7,200,000 class wide settlement.
- *Lomas et al. v. Health Insurance Associates LLC* (M.D. Fla. 2023), a nationwide Telephone Consumer Protection Act class action settlement resulting in a \$990,000 class wide settlement.
- *Chapman et al. v. America's Lift Chairs, LLC* (S.D. Ga. 2023), a nationwide Telephone Consumer Protection Act class action settlement resulting in a \$1,700,000 class wide settlement.

18. Class Counsel has vigorously litigated this action and will continue to do so through completion.

19. The Settlement Agreement is subject to the approval and determination of the Court as to the fairness, reasonableness and adequacy of the settlement, which, if approved, will result in final certification of the Class and dismissal of the action with prejudice. It is my opinion that the settlement achieves a result which is fair, reasonable and adequate.

20. The monetary relief on a per Class Member basis and the remedial relief agreed to by Defendant place the Settlement well within the range of possible approval. The total Settlement Sum available to the class to resolve this matter is \$1,400,000, which is equal to \$575 per Class Member. This is an extraordinary result and exceeds the range of similar settlements in cases.

21. Plaintiff's and the Class's claims demanded considerable time and labor, precluding other employment by Class Counsel, and making the requested fee fair, reasonable, and justified. The terms of the proposed fee award do not undermine the Settlement's fairness or adequacy, as the Settlement is not conditioned on an award of attorneys' fees. Below, I set forth the nature of the work performed and time expended by Kaufman P.A. in this action to demonstrate why Class Counsel's request for attorneys' fees and expenses is reasonable and should be approved by the Court.

22. I was involved in all major aspects of litigating this action. Those efforts generally fell into the following categories: (a) pre-filing investigation and pleadings; (b) post-filing

investigation and discovery; (c) motion practice; (d) settlement; and (e) case and settlement management.

23. I am the attorney who oversaw the day-to-day activities in this action and have reviewed the firm's time records in connection with the preparation of this Declaration. As a result of this review, I believe the time reflected herein and the expenses for which payment is sought are reasonable and were necessary for the effective and efficient prosecution and resolution of the action. In addition, I believe that the expenses are all of a type that would be typically charged to an hourly fee-paying client in the private legal market.

24. In total, Kaufman P.A. devoted 261 hours to this litigation, as of August 7, 2024.

25. Class Counsel has been awarded attorneys' fees as a percentage of the fund in TCPA class actions based on lodestar cross-checks using Mr. Kaufman's hourly rate of \$800 and Ms. Kaufman's hourly rate of \$730.

26. Based on the hourly rates of \$730 for Ms. Kaufman and \$800 for Mr. Kaufman, the total lodestar amount for Class Counsel's time expended to date in this action is \$200,890. Accordingly, the lodestar amount is a 2.3 times multiplier of the requested fee—a multiplier below the typical range approved in similar cases.

27. Moreover, the estimated lodestar does not include additional time that will be expended by Kaufman P.A. Based on my experience in prior class-wide litigation, I conservatively anticipate that Kaufman P.A. will expend more than 20 additional hours in preparing for and attending the final fairness hearing, continuing to oversee the notice program, overseeing the claims process for the settlement, and responding to Class members' inquiries.

28. The expenses incurred in this action are reflected in the books and records of my firm. These books and records are prepared from receipts, check records, credit card statements, and other source materials, and are accurate records of the expenses incurred.

29. Class Counsel spent 261 hours and nearly \$7,000 to zealously promote the Class's interests. Class Counsel represented Plaintiff and the Class on a purely contingent basis. Class Counsel assumed the significant risk that they would not be compensated for time and out of pocket

expenses invested into this contentious case. This risk of nonpayment incentivized counsel to work efficiently, to prevent duplication of effort, and to advance expenses responsibly.

30. The time and resources devoted to this action readily justify the requested fee. Moreover, Class Counsel assumed significant risk of nonpayment in initiating and expending attorney hours in this case given the complex legal issues involved and Defendant's vigorous defense of Plaintiff's and the Class's claims. Despite Class Counsel's effort in litigating, Class Counsel remain completely uncompensated for the time invested in the action, in addition to the expenses we advanced.

31. The Settlement Agreement is subject to the approval and determination of the Court as to the fairness, reasonableness and adequacy of the settlement, which, if approved, will result in final certification of the Class and dismissal of the action with prejudice. It is my opinion that the settlement achieves a result which is fair, reasonable and adequate.

32. The Settlement is reasonable and fair because it provides an excellent monetary result for Class Members and meaningful remedial relief in return for a narrow release tailored to the conduct and claims presented in the action.

33. Ultimately, the Settlement confers substantial and immediate benefits upon the Class and others whereas continued and protracted litigation may have ultimately delivered none given the risks presented by the ever changing TCPA and consumer class action law landscape, and the uncertainties of contested litigation, including at class certification, summary judgment, trial and on appeal.

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

Dated: August 7, 2024

/s/ Avi R. Kaufman

Avi R. Kaufman