

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

Amanda Hopkins v. Modernize, Inc., Civil Action No. 17-cv-40087-TSH

If a call from Defendant was directed to your telephone, you could get a payment from a class action settlement.

A federal court authorized this Notice. This is not a solicitation from a lawyer.

- Defendant Modernize, Inc. (“Defendant”) has agreed to pay \$800,000.00 into a fund from which eligible persons or entities who file claims will receive cash awards.
- The settlement resolves a lawsuit involving allegations that Defendant made telemarketing calls from November 1, 2013, through February 1, 2018, on cellular telephone lines using an automatic telephone dialing system or artificial or prerecorded voice.
- Court-appointed lawyers for the Class (“Class Counsel”) will ask the Court for \$266,666.00 of the fund as fees and to reimburse them for the out-of-pocket expenses they paid to investigate the facts, litigate the case, and negotiate the settlement.
- Defendant denies all allegations of wrongdoing in the lawsuit. As part of the proposed settlement, Defendant does not admit to any wrongdoing and continues to deny the allegations against them.
- The two sides disagree on whether Plaintiff and the Class could have won at trial.
- Your legal rights are affected whether you act or don’t act. Read this Notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
SUBMIT A CLAIM FORM BY MAY 11, 2019	This is the only way to receive a payment.
EXCLUDE YOURSELF BY MAY 11, 2019	Get no payment. This is the only option that allows you to ever be part of any other lawsuit against Defendant about the legal claims in this case.
OBJECT BY MAY 11, 2019	Write to the Court explaining why you don’t like the settlement.
ATTEND A HEARING ON OCTOBER 4, 2019	Ask to speak in Court about the fairness of the settlement.
DO NOTHING	Get no payment. Give up the right to ever be part of any other lawsuit against Defendant about the legal claims in this case.

BASIC INFORMATION

The purpose of this Notice is to let you know that a proposed settlement has been reached in the class action lawsuit entitled *Amanda Hopkins v. Modernize, Inc.*, Civil Action No. 17-cv-40087-TSH. You have legal rights and options that you may act on before the Court decides whether to approve the proposed settlement. Because your rights will be affected by this settlement, it is extremely important that you read this Notice carefully. This Notice summarizes the settlement and your rights under it.

In a class action, one or more people, called Class Representatives, sue on behalf of people who have similar claims. All of these people are a Class, or Class Members. One court resolves the issues for all Class Members, except those who exclude themselves from the Class.

Here, the Class Representative alleges that Defendant violated the Telephone Consumer Protection Act (“TCPA”) by making calls to cellular telephones through the use of an automatic telephone dialing system or an artificial or prerecorded voice. The Class Representative alleges that Defendant did not have the recipients’ permission to make these calls. The Court has certified a Class for settlement purposes only (the “Settlement Class”). U.S. District Court Judge Timothy Hillman (the “Court”) is in charge of this class action. Defendant denies that it did anything wrong, and denies that this case would be certified as a class action in litigation.

THE SETTLEMENT

The Court did not decide in favor of the Plaintiff or Defendant. Instead, both sides agreed to a settlement. That way, they avoid the cost of a trial and the people affected will get compensation. The Class Representatives and their attorneys think the settlement is best for the Settlement Class.

WHO IS IN THE SETTLEMENT?

You are in the Settlement Class if your phone number is included on the Class List identifying consumers called by the defendant using an automatic telephone dialing system or prerecorded voice.

If you have questions about whether you are part of the Settlement Class, you may call 1-877-266-8807 or visit www.ModernizeTCPASettlement.com for more information.

THE SETTLEMENT BENEFITS – WHAT YOU GET

Defendant has agreed to pay \$800,000.00 to be divided among all Settlement Class Members who send in a valid Claim Form after any fees, costs, service awards, and settlement administration expenses have been deducted. Defendant has also agreed that they will take remedial steps in an effort to comply with the TCPA's requirements regarding making telephone calls using an automatic telephone dialing system or an artificial or prerecorded voice to any telephone number assigned to a cellular telephone service.

Your share of the settlement will depend on the number of Claim Forms that Settlement Class Members submit. The estimated payout per consumer is \$20.00 but that number could be higher or lower depending on the number of claims received.

HOW YOU GET A PAYMENT – SUBMITTING A CLAIM FORM

To qualify for payment, you must submit a Claim Form. There are multiple ways to submit a Claim Form. A paper Claim Form is available by requesting one by calling 1-877-266-8807. Read the instructions on the postcard carefully, fill out the form, sign it, and mail it postmarked no later than May 11, 2019. You may also submit a Claim Form online by going to the Settlement Website at www.ModernizeTCPASettlement.com and following directions. You also may download a paper Claim Form on the Settlement Website or call the Settlement Administrator at 1-877-266-8807. Claim Forms sent by mail must be postmarked by May 11, 2019, and mailed to:

Amanda Hopkins v. Modernize, Inc.,
Settlement Administrator
c/o A.B. Data, Ltd.
P.O. Box 173029
Milwaukee, WI 53217

The Court will hold a Final Approval Hearing (the "Hearing") on October 4, 2019, at 2:00 p.m. in Courtroom 2, before the Honorable Timothy Hillman at the U.S. District Court for the District of Massachusetts, Worcester Division, 595 Main St., Worcester, MA 01608 to decide whether to approve the settlement. If the settlement is approved, appeals may still follow. It is always uncertain whether these appeals can be resolved, and resolving them can take more than a year. Please be patient.

Unless you exclude yourself, you are staying in the Settlement Class and you will be a Settlement Class Member. That means you can't sue, continue to sue, or be part of any other lawsuit against Defendant regarding the TCPA claims that are subject to the settlement. If the settlement is approved and becomes final and not subject to appeal, then you and all Class Members release all "Released Claims" against all "Released Parties." It also means that all of the Court's orders will apply to you and legally bind you.

The Settlement Agreement (available at www.ModernizeTCPASettlement.com) describes the claims you are releasing (the "Released Claims") and against whom you are releasing claims ("Released Parties") in detail, so read it carefully. To summarize, the release includes, but is not limited to, telemarketing-related claims that arise out of the improper use of an "automatic telephone dialing system" and/or an "artificial or prerecorded voice" to make telephone calls to cellular phones.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you don't want a payment from this settlement, but you want to keep the right to sue or continue to sue Defendant, then you must take steps to remove yourself from the Settlement Class. This is called excluding yourself—or is sometimes referred to as "opting out" of the Settlement Class.

To exclude yourself from the settlement, you must send a letter stating that you want to be excluded from the settlement captioned *Amanda Hopkins v. Modernize, Inc.*, Civil Action No. 17-cv-40087-TSH. You must sign the letter and include a statement that you wish to be excluded from this action. Please be sure to include your name, address, telephone number, last 4 digits of your Social Security number, and signature. You must mail your exclusion request postmarked no later than May 11, 2019, to the following address:

Amanda Hopkins v. Modernize, Inc.,
EXCLUSIONS
c/o A.B. Data, Ltd.
P.O. Box 173001
Milwaukee, WI 53217

You cannot exclude yourself on the phone or by fax or email. If you ask to be excluded, you will not get any payment, and you cannot object to the settlement. You will not be legally bound by anything that happens in this lawsuit. You may be able to sue (or continue to sue) Defendant in the future.

Unless you exclude yourself, you give up any right to sue Defendant for the claims that this settlement resolves. If you already have a lawsuit that may relate to the claims being released as part of this class settlement, you should speak to your lawyer in that case immediately. You must exclude yourself from this Settlement Class to continue your own lawsuit. Remember, the exclusion deadline is May 11, 2019.

THE LAWYERS REPRESENTING YOU

The Court has appointed Ted Broderick of Broderick & Paronich, P.C., Brian Murphy of Murray Murphy Moul & Basil, Alex Washkowitz of CW Law Group, P.C., and Matthew McCue of The Law Office of Matthew P. McCue, to represent you and other Settlement Class Members. These lawyers are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

Class Counsel will ask the Court to approve payment of 33 1/3% of the \$800,000 Settlement Fund (\$266,640). Class Counsel will also seek recovery of their actual expenses spent on the litigation. These payments would pay Class Counsel for investigating the facts, litigating the case, and negotiating the settlement. Class Counsel also will request a service award of \$10,000 for the named Plaintiff to compensate her for her time and effort. The Court may award less than these amounts.

OBJECTING TO THE SETTLEMENT

If you are a Settlement Class Member and you do not exclude yourself from the Settlement Class, you can object to the settlement if you don't like any part of it. You may give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must send a letter stating that you object to *Amanda Hopkins v. Modernize, Inc.*, Civil Action No. 17-cv-40087-TSH. You must make your objection in writing and file it with the Court. The written objection must (a) contain information sufficient to allow the parties to confirm that you are a member of the Settlement Class, including your full name, address, telephone number, and signature; (b) include a statement of your specific objections, as well as any witness testimony and documents that you would like the Court to consider; and (c) the name and contact information of any attorney you intend to have assert your objections before the Court. You must file the objection with the Court no later than May 11, 2019, and address it as follows:

Amanda Hopkins v. Modernize, Inc., Civil Action No. 17-cv-40087-TSH
Clerk of the Court
U.S. District Court for the District of Massachusetts, Worcester Division
595 Main St.
Worcester, MA 01608

Objecting simply means telling the Court that you don't like something about the settlement. You can object only if you stay in the Settlement Class. Excluding yourself from the Settlement Class is telling the Court that you don't want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE COURT'S FAIRNESS HEARING

The Court will hold a Final Approval Hearing (the "Hearing") on October 4, 2019, at 2:00 p.m. in Courtroom 2, before the Honorable Timothy Hillman at the U.S. District Court for the District of Massachusetts, Worcester Division, 595 Main St., Worcester, MA 01608. The purpose of the Hearing is for the Court to determine whether the settlement is fair, reasonable, adequate, and in the best interests of the Class. At the Hearing, the Court will hear any objections and arguments concerning the fairness of the proposed settlement, including those related to the amount requested by Class Counsel for attorneys' fees and expenses, and the incentive award to the Class Representative. After the Hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take.

Note: The date and time of the fairness Hearing are subject to change by Court Order. Any changes will be posted at the Settlement Website. You do not have to attend the Class Hearing. Class Counsel will answer any questions the Court may have. But you are welcome to come to the Hearing at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as your written objection was filed or mailed on time, and meets the other criteria described in the Settlement Agreement, the Court will consider it. You may also pay a lawyer to attend, but you don't have to.

If you do not exclude yourself from the Settlement Class, you may ask the Court for permission to speak at the Hearing concerning any part of the proposed Settlement Agreement. If you filed an objection and intend to appear at the Hearing, you must state your intention to do so in your objection. To speak, you must state that in your objection. Be sure to include your name, address, telephone number, that you are a Class Member, and your signature. You cannot speak at the Hearing if you exclude yourself. If you do nothing, you'll get no money from this settlement. But, unless you exclude yourself, you won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendant about the legal issues released in this case.

GETTING MORE INFORMATION

This Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may review the Settlement Agreement on the Settlement Website at www.ModernizeTCPASettlement.com. You can also get a copy of the Settlement Agreement by writing to any of the Court appointed attorneys. You can call 1-877-266-8807 toll free; write to *Amanda Hopkins v. Modernize, Inc.*, Settlement Administrator, c/o A.B. Data, Ltd., P.O. Box 173029, Milwaukee, WI 53217; or visit the website at www.ModernizeTCPASettlement.com, where you will find answers to common questions about the settlement, a Claim Form, plus other information to help you determine whether you are a member of the Settlement Class. You also may write to Broderick & Paronich, P.C., 99 High St., Suite 304, Boston, MA 02110.

PLEASE DO NOT CONTACT THE COURT, THE JUDGE, OR THE DEFENDANT WITH QUESTIONS ABOUT THE SETTLEMENT OR CLAIMS PROCESS.