

Fabricant v. AmeriSave, Case No. 19-cv-04659-AB-AS
United States District Court for the Central District of California

YOU MAY BE ENTITLED TO BENEFITS FROM A CLASS ACTION SETTLEMENT

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

- A proposed settlement has been reached in Terry Fabricant, individually and on behalf of all others similarly situated, v. AmeriSave Mortgage Corporation, Case No. 19-cv-04659-AB-AS, pending in the U.S. District Court for the Central District of California (the “Court”).
- The Lawsuit alleges that AmeriSave Mortgage Corporation (“AmeriSave” or “Defendant”) sent communications to cellular telephone subscribers on their cellular telephones without their prior consent in violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* (“TCPA”) Defendant strongly denies any claims of wrongdoing, but has agreed to settle the lawsuit (defined below) to avoid the burden and cost of further litigation.
- You are a Settlement Class member if AmeriSave’s records indicate that – you were contacted by AmeriSave on your mobile phone between April 1, 2018 and December 31, 2019.
- Capitalized terms used in this Notice, other than those defined in this Notice, shall have the same meaning as set forth in the Settlement Agreement.
- ***Your Legal Rights Are Affected Even If You Do Not Act. Please Read This Notice Carefully.***

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT		DEADLINE
Submit a Claim Form	If you are a valid Settlement Class Member and wish to receive your portion of the Settlement Fund, you need to complete and submit a Claim Form, either by mailing it to AmeriSave TCPA Settlement Administrator, P.O. Box 341, Baton Rouge, LA 70821 or submitting it online at www.AmeriSaveTCPAclaims.com . After the Settlement's Effective Date and the Court's final approval of the Settlement, you will receive payment for an amount that shall be calculated pro rata based on the number of Valid Claim Forms that are submitted by the Settlement Class.	September 18, 2020
Do Nothing	If you do nothing, you will become a Class Member bound by the terms of the Settlement Agreement and Final Judgment, thus forfeiting your right to sue on your own regarding any claims that are part of the settlement. However, your failure to timely submit a Valid Claim Form will forfeit your right to receive your portion of the Settlement Fund. All unclaimed Settlement Funds will then be given to Electronic Privacy Information Center (EPIC).	No Deadline
Ask to Be Excluded	You can opt out of the settlement by submitting a Valid Exclusion Request to the Claims Administrator. If you do so, you will not be eligible to receive a settlement payment. But you will retain the right to sue on your own regarding any claims that are part of the settlement.	September 30, 2020
Submit an Objection	You may remain a part of the settlement and write to the Court to explain why you do not like the settlement. You may appear and speak at the Final Approval Hearing on your own or through a lawyer hired by you at your own expense. If the settlement is approved over your objection, however, you will receive payment for an amount to be determined based off of your pro rata share of the Net Settlement Fund after the settlement's Effective Date and after the Court grants final approval of the settlement. You will be bound by the settlement and give up your right to sue on your own regarding any claims that are part of the settlement.	September 30, 2020
Go to a Hearing	Ask to speak in Court about the fairness of the Settlement if you file a valid and timely objection.	November 20, 2020

**THESE RIGHTS AND OPTIONS
– AND THE DEADLINES TO EXERCISE THEM –
ARE EXPLAINED IN THIS NOTICE.**

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1. Why is there a Notice?

The purpose of this Notice is to inform potential class members about the proposed settlement of a class action lawsuit. This Notice explains:

- What the lawsuit and the settlement are about.
- Who is a member of the Settlement Class.
- Who represents the Settlement Class Members in the lawsuit.
- What your legal rights and choices are.
- How and by when you need to act.

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

In a class action lawsuit, one or more people, called “Named Plaintiffs” or “Class Representatives,” sue on behalf of people who the Named Plaintiff believes has similar claims. The people together are called the “Class” or “Class Members.” In this case, the Named Plaintiff and the company being sued, the Defendant, have reached a proposed settlement. A Court is considering whether to approve the settlement, so it has allowed, or “certified,” this case as a class action for settlement purposes only. All decisions that the Court makes concerning the settlement will affect everyone in the Settlement Class.

3. What lawsuit is involved in this settlement?

A class action was filed in the United States District Court for the Central District of California entitled *Terry Fabricant, individually and on behalf of all others similarly situated, v. AmeriSave Mortgage Corporation*, Case No. 19-cv-04659-AB-AS (C.D. Cal.). This lawsuit is referred to as the “Class Action.”

4. What is this Class Action about?

This Class Action alleges that Defendant sent communications to cellular telephone subscribers on their cellular telephones without their prior consent in violation of Sections b and c of the Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq. (“TCPA”).

Defendant strongly denies any wrongdoing, but has agreed to settle the Lawsuit in order to avoid the burden and cost of further litigation.

5. Why is there a Settlement?

The Court did not decide in favor of the Named Plaintiff or Defendant. The Class Representative and Class Counsel (listed below) believe that the claims asserted in the Class Action have merit, but believe that the settlement is in the best interests of the Settlement Class. Class Counsel has evaluated information made available in the course of the lawsuit and settlement negotiations and have taken into account the risks and uncertainties of proceeding with the Class Action. Those risks include the uncertainty of obtaining and maintaining class certification, prevailing on the merits, proving substantial damages at trial, and prevailing on post-trial motions and likely appeals. Based upon the consideration of these and other factors, including the substantial time and expense of further litigation, Class Counsel believe that it is in the best interests of the Settlement Class to settle the Class Action on the terms described below.

Defendant strongly denies any wrongdoing and does not believe it has any liability to the Class Representative or the Settlement Class. However, Defendant believes that it is in its best interest to settle the Class Action under the terms of the Settlement Agreement and obtain closure on these matters to avoid the uncertainty, expense, and diversion of business resources resulting from further litigation.

The Parties engaged in settlement negotiations, participated in mediation before a professional mediator, and shared information pertaining to the claims asserted in the Class Action before reaching the settlement.

This Notice does not imply that any court has found or would have found that Defendant violated the law, that a class would have been certified, or that any member of the class would have recovered any amount of damages if the Class Action were not settled.

WHO IS IN THE SETTLEMENT?

6. Am I a Member of the Settlement Class?

You are a member of the Settlement Class if:

- AmeriSave's records indicate that you were contacted by AmeriSave on your mobile phone in connection with the promotional and/or marketing campaign between April 1, 2018 and December 31, 2019.
- You are not a current or former employee, officer, director, agent, or legal representative of AmeriSave, or its affiliated entities.

THE TERMS OF THE PROPOSED SETTLEMENT

This Notice provides a summary of some, but not all, of the terms of the Settlement Agreement. Visit www.AmerisaveTCPAclaims.com to see a copy of the entire Settlement Agreement. The Settlement Agreement must be approved by the Court and become "Final" before any benefits are paid.

7. What benefits will I receive as a member of the Settlement Class?

The Defendant has agreed to establish a Settlement Fund of \$6,250,000 to pay settlement class members who make valid, timely claims; pay Class Counsel's attorneys' fees of up to 20% of the Settlement Fund; pay Class Counsel's actual costs up to \$50,000; pay a service award to the Class Representative up to \$5,000; and pay costs and expenses of settlement administration.

After the Court grants final approval of the Settlement, each Settlement Class Member who submitted a Valid Claim Form as described above will receive a check in the mail, or through electronic payment, for an amount that shall be calculated pro rata based on the number of Valid Claim Forms that are submitted by the Settlement Class.

8. Is there any money available now?

No. No money or benefits are available now because the Court has not yet decided whether to approve the settlement and because it is not yet final. There is no guarantee that money or benefits will ever be distributed.

This Notice is being provided to you so that you can decide whether to participate in the settlement.

9. What happens if I do nothing?

If you do nothing, you will become a Class Member bound by the terms of the Settlement Agreement and Final Judgment, thus forfeiting your right to sue on your own regarding any claims that are part of the settlement. **However, your failure to timely submit a Valid Claim Form will forfeit your right to receive your portion of the Settlement Fund.** All unclaimed Settlement Funds will then be given to Electronic Privacy Information Center (EPIC).

10. If I remain in the Settlement Class, what claims do I give up?

If you remain in the Settlement Class, you give up your right to sue in court or arbitration or be part of any other lawsuit or arbitration against Defendant or its affiliates regarding any issues related to the Released Claims (please see the Settlement Agreement for the claims that will be released). Additionally, all of the Court's orders will apply to you and legally bind you.

11. Why would I ask to be excluded?

You may want to exclude yourself from the Settlement Class if you already have filed (or intend to file) a lawsuit or arbitration against Defendant or its affiliates for the Released Claims and want to continue that lawsuit or arbitration individually, on your own behalf. If you do not exclude yourself, you will be legally bound by all orders of the Court regarding the Settlement Class, the Settlement Agreement, and the Released Claims. All Settlement Class Members who do not ask to be excluded will be forever barred from asserting against Defendant and its affiliates any and all actions, claims, causes of action, proceedings, or rights of any nature and description whatsoever regarding the Released Claims, as more fully described in the Settlement Agreement. Settlement Class Members who request exclusion shall **not** be entitled to recover any benefits from the settlement. Settlement Class Members who request exclusion will **not** receive a check in the mail, nor any other form of payment, after the settlement becomes Final.

12. How do I exclude myself from the Settlement Class?

You may exclude yourself ("opt out") from the Settlement Class by submitting an Opt-Out Form available at the Settlement Website, www.AmeriSaveTCPAclaims.com. You may submit this form electronically through the Settlement Website or you may print out the form and mail it to the Settlement Administrator. If you choose to mail your Opt-Out Form, please send it to the following address:

AmeriSave TCPA Settlement Administrator
P.O. Box 341
Baton Rouge, LA 70821

The Opt-Out Form must be submitted electronically or postmarked **no later than September 30, 2020.**

If you exclude yourself from the settlement, you cannot object to the settlement and you will **not** receive any money or other benefits from the Settlement.

However, you may rescind your request for exclusion by providing written notice of withdrawal to the Settlement Administrator no more than fourteen (14) days after the Final Approval Hearing.

13. Can I object to the settlement?

Yes, but **not** if you exclude yourself from the Settlement Class. Objecting is simply telling the Court that you do not like something about the settlement but that you elect to remain in the Settlement Class. All objections that are served on the Settlement Administrator by the deadline of September 30, 2020 will be considered at the Final Approval Hearing on November 20, 2020. If you do not serve an objection, you waive your right to appeal any Court order or judgment related to the settlement. If the settlement is ultimately approved over your objection, you will receive payment in the amount of your pro rata share of the net Settlement Fund less attorney's fees, costs of suit and administration costs, after the settlement's Effective Date and after the Court grants final approval of the settlement. You will be bound by the settlement and give up your right to sue on your own regarding any claims that are part of the settlement.

To object to the settlement, you must submit a written objection to the Settlement Administrator, by the objection deadline. Please note you must submit an objection to the Settlement Administrator and to the Clerk of Court if you intend to appear and speak at the Final Approval Hearing.

Your written objection must include:

- The name and case number of this lawsuit;
- Your full name, address, email, and mobile telephone number;
- A written statement of all grounds for your objections accompanied by any legal support for such objections;
- Copies of any papers, briefs or other documents upon which your objection is based;
- A written statement as to whether you intend to appear at the Final Approval Hearing;
- A declaration setting forth any other objections submitted by you or your counsel (if any) to any class action settlement submitted in any court (whether state, federal or otherwise) in the United States in the previous five (5) years, along with the case name(s) and case number(s) of any other such matters to which you have objected; and
- If you intend to appear at the Final Approval Hearing through counsel at your own expense, you must also identify the attorney(s) representing you who will appear at the Final Approval Hearing.

The deadline to submit your objection is to the Settlement Administrator is September 30, 2020. The address for the Settlement Administrator is:

AmeriSave TCPA Settlement Administrator
c/o Postlethwaite & Netterville
P.O. Box 341
Baton Rouge, LA 70821

14. When is the Final Approval Hearing?

The Court will hold a Final Approval Hearing on November 20, 2020, at 10:00 a.m. in Courtroom 7D of the United States District Court for the Central District of California, the Honorable Andre' Birotte Jr. presiding, located at 350 West First Street, 7th Floor, Los Angeles, California 90012. The date of the Final Approval Hearing may change, so please refer to the settlement website to confirm the date and time of the Final Approval Hearing. At the Final Approval Hearing, the Court will consider if:

- The settlement is fair, reasonable, and adequate;
- The settlement should be approved; and
- Any objections to the settlement and, if so, whether those are valid.

15. Do I have to attend the Final Approval Hearing?

No. Your attendance at the Final Approval Hearing is not required even if you submit a written objection. However, you or your attorney may attend the hearing at your own expense.

16. What is required if I object and want to attend the Final Approval Hearing?

In addition to the requirements for submitting objections, as listed above in question 13, if you and/or your attorney intend to appear at the Final Approval Hearing, you must provide to the Settlement Administrator (who shall forward it to Class Counsel and Defense Counsel) and file with the Clerk of the Court a notice of intention to appear at the Final Approval Hearing no later than October 21, 2020 or as the Court may otherwise direct.

The address for the Clerk of the Court is:

Clerk of the Court
Dept 7D
U.S. District Court for the Central District of California
350 West First Street
Los Angeles, CA 90012

You may file the notice of intention to appear in person or electronically in the case of *Terry Fabricant, individually and on behalf of all others similarly situated, v. AmeriSave Mortgage Corporation*, Case No. 19-cv-04659-AB-AS (C.D. Cal.) in the United States District Court for the Central District of California.

17. May I speak at the Final Approval Hearing?

Yes, you may speak at the Final Approval Hearing to object to the proposed settlement, but only if you have submitted a written objection and filed a notice of intention to appear as described above (unless the Court provides otherwise). You may also enter an appearance through an attorney hired at your own expense.

THE LAWYERS REPRESENTING YOU

18. Does the Settlement Class have a lawyer?

Yes. The Court appointed the **Law Offices of Todd M. Friedman, P.C.** to represent you and the other Settlement Class Members. They are called “Class Counsel.” More information about this law firm, their practices, and their lawyers is available at <http://www.toddflaw.com>.

19. Should I hire my own lawyer?

You do not need to hire your own lawyer because Class Counsel is working on your behalf. However, you may hire an attorney at your own expense to represent you and speak on your behalf.

20. How will Class Counsel be paid?

If the Court approves the Settlement Agreement at the Final Approval Hearing, then Class Counsel will ask the Court for an award of reasonable attorneys’ fees and costs in an amount not to exceed \$1,300,000.

21. Will the Class Representative request any payments in addition to the Settlement Benefits?

Yes. The Class Representative in this Class Action is Named Plaintiff Terry Fabricant. Class Counsel will request that the Court grant an incentive award of up to \$5,000 for the Class Representative.

MORE INFORMATION

22. Where can I get more information?

This Notice is only a summary of relevant court documents. Visit www.AmeriSaveTCPAclaims.com to see complete copies of case-related documents. If you have further questions, you may:

- Call the toll free number: 1-833-440-0743
- Write to the Settlement Administrator:

AmeriSave TCPA Settlement Administrator
c/o Postlethwaite & Netterville
P.O. Box 341
Baton Rouge, LA 70821

- If you wish to contact Class Counsel regarding the settlement, you may contact them directly as follows:

Todd M. Friedman, Esq.
Adrian R. Bacon, Esq.
Law Offices of Todd M. Friedman, P.C.
21550 Oxnard Street, Suite 780
Woodland Hills, CA 91367
Tel.: (877)- 619-8966

23. May I contact the Court or Defendant directly?

Please do not contact the Court, Defendant or Defense Counsel regarding this settlement. They cannot provide you any advice.