

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

JOSHUA SOMOGYI, KELLY WHYLE
SOMOGYI and STEWART SIELEMAN,
on behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

FREEDOM MORTGAGE CORP.,

Defendant.

Case No. 1:17-cv-06546-RMB-JS

CLASS ACTION

JURY TRIAL DEMANDED

**NOTICE OF CLASS ACTION SETTLEMENT, APPLICATION FOR
ATTORNEYS' FEES AND COSTS, AND COURT HEARING**

A United States Federal Court authorized this Notice. This is not a solicitation from a lawyer. Your legal rights will be affected whether or not you act. Please read this Notice carefully.

Your rights may be affected by the proposed settlement (“Settlement”) of this class action lawsuit (the “Action”) if you are a client of defendant Freedom Mortgage Corp. (“FMC”) in the United States whose mortgage FMC serviced and who, during the period September 1, 2013 through July 22, 2019 (the “Class Period”), received one or more calls or voicemails made by or on behalf of FMC to any one or more of the client’s cellular, voice over internet protocol (VOIP), residential, or landline phone numbers (the “Settlement Class” or “Settlement Class Members”).

For purposes of the Settlement Class, “client” shall mean borrowers and co-borrowers, spouses, and successors-in-interest, who shall collectively be deemed one client.

If you are covered by the above description of the Settlement Class, you may be entitled to a payment (unless you elect to exclude yourself from the Settlement Class). If you received this Notice, you are probably a Settlement Class Member. In addition to the corporate compliance relief described more fully at page 2, if the Court approves the Settlement and you file a valid Claim Form, you also may be entitled to receive a cash payment of about \$37.61, or significantly higher or lower depending on costs and fees and how many valid Claim Forms are filed, as described more fully at page 3.

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What are My Options? As a Settlement Class Member, you have the following options:

YOUR LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENT:	
DO NOTHING.	Get no payment. Remain a Settlement Class Member. Give up right to sue FMC concerning the released claims.
SUBMIT A CLAIM FORM ONLINE OR BY MAIL POSTMARKED BY JUNE 23, 2020.	If you wish to obtain a cash payment as a Settlement Class Member, you must fill out and return a Claim and Release Form (“Claim Form”) which is included with the postcard Notice and available online at www.MortgageTCPASettlement.com . Claim Forms must be completed, signed and submitted to the Settlement Administrator online no later than 11:59 p.m. (ET) on June 23, 2020 or if by mail postmarked no later than June 23, 2020 .
EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS (OPT OUT) BY SUBMITTING A WRITTEN REQUEST FOR EXCLUSION SO THAT IT IS POSTMARKED NO LATER THAN JUNE 23, 2020.	Receive no payment pursuant to this Settlement. This is the only option that allows you to ever potentially be part of any other lawsuit or other legal proceeding, such as arbitration if applicable, against FMC concerning the claims asserted in this Action. Should you exclude yourself from the Settlement and the Action, you should understand that FMC will have the right to assert all defenses it may have to any claims that you may seek to assert including, among others, the defense that any such claims are untimely under applicable statutes of limitations and statutes of repose.
OBJECT TO THE SETTLEMENT SO THAT THE OBJECTION IS POSTMARKED NO LATER THAN JUNE 23, 2020.	Write to the Court about why you do not like the Settlement. You can do this only if you do not exclude yourself.

What is the Case and the Settlement About? This class action lawsuit claims that FMC violated the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (“TCPA”) by improperly calling cellular or landline phones for marketing purposes without consent. FMC denies that it violated

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the law or did anything wrong, and has asserted several defenses. The Court has not ruled on the merits of the claims or defenses. FMC has agreed to the proposed Settlement to end this Action. Plaintiffs have agreed to the proposed Settlement to avoid the risks in continuing to litigate, including the risks that no class action may be certified by the Court, or that no recoveries may result.

Under the proposed Settlement, FMC will pay \$9,500,000 (the “Settlement Amount”) into a *non-reversionary* fund (meaning that, if the Settlement is approved by the Court, FMC will not get any of those funds back regardless of how many Claim Forms are filed). Also as an important part of the proposed Settlement, FMC will, within 180 days after the Settlement becomes effective: (a) designate a senior manager to be responsible for assuring FMC’s compliance with the TCPA who will report directly to the office of FMC’s Chief Executive Officer; (b) provide additional training concerning the TCPA’s do-not-call (“DNC”) lists to ensure that all FMC employees, as well as all external third-party vendors of FMC (including any newly hired such vendors) that make marketing calls for or on behalf of FMC, adhere to FMC’s DNC list; and (c) establish, maintain, and implement updated written procedures to facilitate TCPA compliance regarding DNC policies and DNC lists. The proposed Settlement is subject to Court approval following a hearing. This is not a complete description of the claims, defenses, or the Settlement. The parties’ Settlement Agreement dated July 31, 2019 (the “Settlement Agreement”) contains the complete terms of the proposed Settlement. A copy of the Settlement Agreement, this Notice, the Claim Form, and certain other documents related to this Action may be accessed online at www.MortgageTCPASettlement.com, or by contacting Settlement Class Counsel identified below.

Why am I Receiving this Notice? The Court in charge of this lawsuit has ordered that this Notice be sent to persons who are included in the Settlement Class to advise them of: (a) the terms of the proposed Settlement; (b) their rights concerning the proposed Settlement; and (c) their rights concerning a hearing to be held before the United States District Court for the District of New Jersey (the “Court”), at the Mitchell H. Cohen Building & U.S. Courthouse, 4th & Cooper Streets, Camden, NJ 08101 in Courtroom 3C on **September 10, 2020 at 2:00 p.m.** to consider the fairness, reasonableness and adequacy of the Settlement and the application for attorneys’ fees and reimbursement of litigation expenses and costs to Settlement Class Counsel and related matters (the “Final Approval Hearing”). The time and date of the Final Approval Hearing may be changed by the Court without further notice to the Settlement Class. This Notice also describes the steps to be taken by those who wish to be excluded from the Settlement Class and, for those who remain in the Settlement Class, the steps for them to seek to share in the distribution of the Net Settlement Amount if the Settlement is approved by the Court and they qualify to so share. FMC, current and former affiliates and employees of FMC, the Judges who have presided over this Action, Plaintiffs’ lawyers in the Action, and their legal representatives, heirs, successors and assigns, may not participate in this Settlement or receive a payment. Those persons who opt-out of this Settlement also may not participate in this Settlement.

What is the Plan to Allocate the Net Settlement Amount? Settlement Class Members who submit timely and proper Claim Forms seeking to share in the Settlement are Authorized Claimants. To be eligible to share in the Net Settlement Amount, Settlement Class Members must have received one or more marketing calls or voicemails from FMC or on behalf of FMC during the Class Period to which they did not consent. For purposes of this Settlement, a marketing call

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includes any calls made by or on behalf of FMC to a Settlement Class Member in the Class Period to market or sell any of FMC's mortgage products or services, such as to potentially refinance an existing mortgage the Settlement Class Member may have had.

Authorized Claimants will receive equal shares of the Net Settlement Amount (that is, the amount remaining in the Settlement Amount after all attorneys' fees and other costs and expenses are paid subject to the Court's approval). How much each Authorized Claimant receives will depend on how many people make valid and timely claims that are approved for payment, after deducting Settlement administration and attorneys' fees and costs which are discussed below. Only one payment per household is permitted. Assuming that 10%, or 152,419, of the 1,524,198 total Settlement Class Members file valid and timely Claim Forms and that the Court awards the maximum in total attorneys' fees and Settlement administration and other costs described below, those 152,419 Settlement Class Members would receive from the Settlement a payment of approximately \$37.61 each. This is only an estimate, however, and the actual amount could go up or down significantly depending on the number of valid and timely Claim Forms received and the total fees and costs awarded by the Court. Settlement Class Members do not have to file any Claim Forms to benefit from the additional corporate compliance relief described above assuming the Court approves the Settlement.

What do I Give Up by Participating in the Settlement? Each Settlement Class Member who does not file a valid and timely request to be excluded from the Settlement Class, regardless of whether they file a Claim Form, will be deemed to have forever released and discharged the "Released Parties" from the "Released Claims." "Released Parties" mean FMC and any and all of FMC's past and present parents, partnerships, joint ventures, unincorporated entities, subsidiaries, divisions, affiliates and persons and entities directly or indirectly under their control in the past or in the present; FMC's assignors, predecessors, successors and assigns; and any of their past or present employees, shareholders, agents, directors, officers, members, contractors, subcontractors, vendors, attorneys, insurers, accountants, representatives, heirs and the estates of any and all of the foregoing. "Released Claims" mean any and all claims, liens, demands, actions, causes of action, obligations, damages or liabilities of any nature whatsoever that arose during the Class Period, whether legal or equitable or otherwise, that actually were, or could have been, asserted in the Action including those that arise from or relate to any communications, actions or inactions by the Released Parties allegedly in violation of any provision of the TCPA or its implementing regulations or any similar claims under state statutes or the common law, and any claim arising directly or indirectly out of, or in any way relating to, the claims that actually were, or could have been, asserted in the Action. In addition, the Settlement provides that if it is approved by the Court and the releases provided for in the Settlement become effective, any person who thereafter knowingly brings a Released Claim against a Released Party shall pay the attorney's fees and costs incurred by the defendant or other Released Party as a result of the violation.

How do I Make a Settlement Claim? A Claim Form is enclosed with the postcard Notice and is available online through the website at www.MortgageTCPASettlement.com. You can make a claim by completing and signing a Claim Form and sending it to the Settlement Administrator in one of the following ways: (1) online through the website www.MortgageTCPASettlement.com; or (2) by mailing a completed postcard Claim Form to: FMC Settlement, Somogyi v. Freedom Mortgage Corp., P.O. Box 400, Philadelphia, PA 19105-0400. To make a claim, you will be

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required to provide: a) your name, b) your address and phone number, and c) the thirteen (13) digit Class Member ID Number listed below your address on the postcard Notice, if you received the postcard Notice by mail or email. You must submit a Claim Form to the Settlement Administrator ***no later than June 23, 2020***. If mailed, the submission must be postmarked ***no later than June 23, 2020***.

Do I Have a Lawyer? Plaintiffs and the Settlement Class are represented by the law firms of Berger Montague PC and Mahany Law Firm as Settlement Class Counsel, and the Law Offices of Stefan Coleman, P.A as additional Plaintiffs' counsel. You will not be charged personally for these lawyers. Instead, these lawyers will be paid from the Settlement Amount if the Settlement is approved by the Court as discussed more fully below. You may, however, hire an attorney at your own expense to represent you and speak on your behalf at the Final Approval Hearing. FMC's attorneys in this Action is the law firm of Akin Gump Strauss Hauer & Feld LLP.

What Fees and Costs May be Deducted From the Settlement Amount? Settlement Class Counsel on behalf of all Plaintiffs' Counsel will ask the Court for an award of attorneys' fees of up to one-third of the Settlement Amount, or \$3,166,666.67, plus interest at the same rate earned by the Settlement Amount; reimbursement of litigation expenses and costs of up to \$85,000; and a Service Award up to \$5,000 each for Plaintiffs Joshua Somogyi, Kelly Whyte Somogyi and Stewart Sieleman, for their service in representing the Settlement Class in this Action. Any such award of attorneys' fees and costs and Service Awards will be paid from the Settlement Amount only after the Effective Date, and at the time the Court directs. Notice and administration costs of up to \$500,000 will also be paid out of the gross Settlement Amount. Before selecting Heffler Claims Group ("Heffler") as the Settlement Administrator subject to the Court's approval, Settlement Class Counsel solicited and received and reviewed bids from several class action claims administration firms. Settlement Class Counsel selected Heffler based on their overall evaluation of all of the bids received and estimated claims administration fees and costs. Settlement Class Counsel will file with the Court and post on the Settlement website their request for an award of attorneys' fees and reimbursement of litigation costs and expenses, and the request for Service Awards for the Plaintiffs, **by June 2, 2020**.

How do I Exclude Myself From the Settlement? Each Settlement Class Member will be bound by all determinations and judgments of the Court in this lawsuit, including those concerning the Settlement, whether favorable or unfavorable, unless such person mails a request for exclusion from the Settlement, by first-class mail addressed to: FMC Settlement, Somogyi v. Freedom Mortgage Corp., P.O. Box 400, Philadelphia, PA 19105-0400. The exclusion request must be postmarked ***no later than June 23, 2020***. Each request for exclusion must clearly indicate the name, address and telephone number of the person seeking exclusion; that the sender requests to be excluded from the Settlement Class in this Action; and must be signed personally by the Settlement Class Member seeking exclusion, even if they are represented by counsel. Requests for exclusion must be submitted individually, and cannot be made *en masse*. Any request for exclusion shall not be effective unless it provides the required information and is made within the time stated above, or the exclusion is otherwise accepted by the Court. If you exclude yourself from the Settlement Class, you will not be able to participate in the Settlement or receive a payment from this Settlement.

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When and Where Will the Court Decide Whether to Approve the Settlement? The Court will hold a hearing at **2:00 p.m. on September 10, 2020** at the United States District Court for the District of New Jersey, Mitchell H. Cohen Building & U.S. Courthouse, 4th & Cooper Streets, Camden, NJ 08101 in Courtroom 3C. The purpose of the hearing will be for the Court to determine whether to approve the Settlement as fair, reasonable and adequate, and in the best interests of Settlement Class Members; to consider Settlement Class Counsel's request for attorneys' fees and reimbursement of costs and expenses; to consider a request to approve Service Awards to the Plaintiffs; and to consider any related matter. At that hearing, the Court will be available to hear any objections and arguments concerning the fairness of the proposed Settlement, the application for attorneys' fees and costs, the application for Service Awards for the Plaintiffs, and any other matter concerning the Settlement.

The hearing may be postponed to a different date or time without notice, so it is a good idea to check www.MortgageTCPASettlement.com or call 833-930-2424 in advance if you plan on attending. If, however, you timely objected to the Settlement and advised the Court that you intend to appear and speak at the hearing, you should receive notice of any change in the date of such hearing, although you may still check the above sources as well. Due to the evolving situation concerning COVID-19, the Court may decide to hold this Hearing telephonically, or to otherwise permit Settlement Class Members to participate in the Hearing telephonically. In the event that the Court requires or permits telephonic participation in this Hearing, the dial-in number for the Hearing will be posted on the Settlement website. Interested Settlement Class Members should check the Settlement website for that information prior to the Hearing.

Do I Have to Come to the Hearing? No. Settlement Class Counsel will answer any questions the Court may have. But, you are welcome to come at your own expense. If you send an objection or comment, you don't have to come to Court to talk about it. As long as you filed and mailed your written objection on time, the Court will consider it. You may also pay or otherwise have another lawyer attend for you, but it's not required.

How Can I Object to the Settlement? Any Settlement Class Member who does not request to be excluded from the Settlement may submit a written objection to the Settlement and may appear at the Final Approval Hearing if they wish to speak or show cause why the Agreement should not be approved as fair, reasonable and adequate, provided that they must first hand-deliver or serve by U.S. first class mail or by email, to (a) Plaintiffs' Counsel care of Lawrence J. Lederer, Berger Montague PC, 1818 Market Street, Suite 3600, Philadelphia, PA 19103, email llederer@bm.net; and (b) Defendant FMC's counsel care of Michael McTigue, Akin Gump Strauss Hauer & Feld, LLP, Two Commerce Square, 2001 Market Street, Suite 4100, Philadelphia, PA 19103, email mmctigue@akingump.com, written objections that state with specificity the grounds for any objection, such that they are postmarked by **June 23, 2020**. All written objections must include: (a) the case caption and the full name, address and telephone number of the objecting Settlement Class Member; (b) a written statement of all grounds for the objection accompanied by any legal support for the objection; (c) copies of any papers, briefs, exhibits, or other documents upon which the objection is based; (d) a list of all persons who will appear at the Final Approval Hearing in support of the objection; (e) a statement of whether the objector intends to appear at the Final Approval Hearing; and (f) the objector's signature. Any Settlement Class Member who does not make his or her objection in the manner provided herein shall be deemed to have waived such

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objection and shall be foreclosed from making any objection to any aspect of the Agreement, unless otherwise ordered by the Court.

What if I Have a Question About the Settlement? You can get more information about the Settlement by visiting the website at www.MortgageTCPASettlement.com. You can also contact the Settlement Administrator toll free at 833-930-2424 or Settlement Class Counsel.

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