

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

*Daniel Berman, et al. v. Freedom Financial Network, LLC, et al., Case No. 4:18-cv-01060-YGR*

**If you received calls that were sent using a pre-recorded voice selling Freedom Financial Network, LLC or Freedom Debt Relief, LLC’s products between May 17, 2017, and April 17, 2018, 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.*

- Defendants have agreed to pay \$9,750,000 into a fund from which eligible persons who file claims will receive cash awards, estimated to be approximately \$60-\$170 per person after deducting settlement administration expenses, any court-awarded service awards, and court-awarded attorneys’ fees and costs.
- The settlement resolves a lawsuit involving persons who, between May 17, 2017, and April 17, 2018, received a call using a pre-recorded voice that had been placed to sell Freedom Financial Network, LLC or Freedom Debt Relief, LLC’s products.
- Court-appointed lawyers for the class (“Class Counsel”) will ask the Court for a payment of approximately \$3,250,000 from the fund as attorneys’ fees, which is equal to one-third of the fund. In addition, Class Counsel will ask the Court to reimburse them for the out-of-pocket expenses they paid to investigate the facts, litigate the case, and negotiate the settlement, which currently amounts to approximately \$200,000.
- Defendants deny all allegations of wrongdoing in the lawsuit. As part of the proposed settlement, Defendants do not admit to any wrongdoing and continue to deny the allegations against it.
- The two sides disagree on whether Plaintiffs 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:**

<b>SUBMIT A CLAIM FORM BY NOVEMBER 25, 2023</b>	This is the only way to receive a payment.
<b>EXCLUDE YOURSELF BY NOVEMBER 25, 2023</b>	Get no payment. This is the only option that allows you to ever be part of any other lawsuit against Defendants about the legal claims in this case.
<b>OBJECT BY NOVEMBER 25, 2023</b>	Write to the Court explaining why you don’t like the Settlement.
<b>ATTEND A HEARING ON February 20, 2024</b>	Ask to speak in Court about the fairness of the Settlement.
<b>DO NOTHING</b>	Get no payment. Give up rights.

**PLEASE DO NOT CONTACT THE COURT OR THE COURT CLERK’S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.**

## BASIC INFORMATION

### 1. Why did I receive this Notice?

The purpose of this Notice is to let you know that a proposed Settlement has been reached in the class action lawsuit entitled *Daniel Berman, et al. v. Freedom Financial Network, LLC, et al.*, Case No. 4:18-cv-01060-YGR, pending in the U.S. District Court for the Northern District of California. 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.

### 2. What is this lawsuit about?

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.

The Class Representatives brought this lawsuit alleging that Defendants violated the Telephone Consumer Protection Act, 47 U.S.C. § 227, et seq. (TCPA) by making calls using an artificial or pre-recorded voice in order to sell Freedom Financial Network, LLC or Freedom Debt Relief, LLC's products. Plaintiffs also alleged that Defendants made calls and sent text messages to telephone numbers on the National Do-Not-Call Registry without the prior permission of the people contacted. Under the TCPA, a person is entitled to receive \$500 for calls that were placed using an artificial or prerecorded message without the person's consent and up to \$500 per call for National Do-Not-Call Registry violations. If the person proves the calls were placed or sent willfully, the person is entitled to triple the amount awarded up to \$1,500.

The Court has certified a Class for Settlement purposes only (the "Settlement Class"). U.S. District Court Judge Yvonne Gonzalez Rogers (the "Court") is in charge of this class action.

Defendants deny that they should be held liable for calls that were made.

## THE SETTLEMENT

### 3. Why is there a settlement?

The Court did not decide in favor of the Plaintiffs or the Defendants. 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?

### 4. How do I know if I am part of the settlement?

You are in the "Settlement Class" if, between **May 17, 2017, and April 17, 2018**, you received a call that was placed using an artificial or pre-recorded voice in order to sell Freedom Financial Network, LLC and Freedom Debt Relief, LLC's products.

Defendants produced a list of telephone numbers that includes Settlement Class Members' telephone numbers. Defendants labeled this list LEADSCIENCE\_677. You can find out if your number is on this list by visiting [www.BermanTCPASettlement.com](http://www.BermanTCPASettlement.com) and following the instructions.

**Questions? Call Toll-Free 1-800-329-4562 or visit the website: [www.BermanTCPASettlement.com](http://www.BermanTCPASettlement.com).  
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The original “Complaint” in this matter proposed Classes that covered a longer time period than the Settlement covers. The Settlement covers a shorter time period because that is the time period that Defendants’ records show calls were placed selling Freedom Financial Network, LLC and Freedom Debt Relief, LLC’s products.

## THE SETTLEMENT BENEFITS – WHAT YOU GET

### 5. What does the settlement provide?

Defendants have agreed to pay \$9,750,000 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 Fluent, Inc. has also agreed to change its telemarketing practices. The Settlement Agreement describes these changes in detail. The changes include (a) a bar on pre-recorded calls, (b) changes to Fluent’s recordkeeping so that Fluent and its affiliated companies are required to maintain records of calls sufficient to identify the date, time, and name of the person consenting, (c) implementation of procedures designed to identify numbers associated with invalid names and processes to ensure that those numbers are not called, (d) a bar on placing any further telemarketing calls to consumers who Fluent has asserted previously consented to receive calls selling Freedom Financial Network, LLC or Freedom Debt Relief, LLC’s services, and (e) revising Fluent’s TCPA consent form to ensure that consent is “clear and conspicuous” and the language complies with the TCPA, including without limitation having the consent language and process reviewed quarterly by internal and external counsel.

### 6. How much will my payment be?

Each Settlement Class Member is entitled to submit a Claim Form. Your share of the settlement will depend on the total number of timely and valid Claim Forms that Settlement Class Members submit and whether you have a National Do-Not-Call Registry claim in addition to a pre-recorded call claim. Claimants who have a National Do-Not-Call claim in addition to the pre-recorded call claim will receive a double share. You can learn if you will receive a double share by visiting the Settlement Website [www.BermanTCPASettlement.com](http://www.BermanTCPASettlement.com) and following the instructions. Class Counsel estimate you will receive approximately \$60-\$170, but this is only an estimate. The actual amount you will receive could be substantially higher or lower than the estimate. Actual payments will be calculated based on the total number of claims submitted and the total number of claimants who have National Do-Not-Call claims. The claims you are releasing by participating in the Settlement are described in detail on the Settlement Website, [www.BermanTCPASettlement.com](http://www.BermanTCPASettlement.com).

## HOW YOU GET A PAYMENT – SUBMITTING A CLAIM FORM

### 7. How do I make a claim?

To qualify for payment, you must submit a Claim Form by November 25, 2023. You may submit a Claim Form online by going to the Settlement Website at [www.BermanTCPASettlement.com](http://www.BermanTCPASettlement.com) and following the instructions. If you received a postcard with an attached claim form, simply complete the Claim Form, tear it off at the perforated line, and mail. You also may download a paper Claim Form on the Settlement Website or call the Settlement Administrator at 1-800-329-4562 to request a paper Claim Form. Claim Forms sent by mail must be postmarked by **November 25, 2023**, and mailed to:

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Berman TCPA Settlement  
Settlement Administrator  
P.O. Box 173036  
Milwaukee, WI 53217

## 8. When will I get my payment?

The Court will hold a hearing on **February 20, 2024**, 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. The date and time of the hearing may change. Changes and updates will be posted on the Settlement Website at [www.BermanTCPASettlement.com](http://www.BermanTCPASettlement.com).

## 9. What am I giving up to get a payment or stay in the Settlement Class?

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 Defendants regarding the claims that are the subject of the settlement. If the settlement is approved and becomes final and not subject to appeal, then you and all Settlement 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.BermanTCPASettlement.com](http://www.BermanTCPASettlement.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 claims that arise out of Defendants' improper use of an "artificial or pre-recorded voice" to make calls selling Freedom Financial Network, LLC or Freedom Debt Relief, LLC's products without the recipients' consent. Under the TCPA a person is entitled to receive \$500 for calls that were placed using a pre-recorded message without the person's consent. If the person proves the calls were placed willfully, the person is entitled to triple the amount up to \$1,500. The Released Claims also include claims for relief under the TCPA's National Do-Not-Call regulations, which provide for up to \$500 per violation call (tripled for willfully-placed calls) if a person receives two or more calls within a twelve-month period to a telephone number that had been on the National Do-Not-Call Registry for at least 31 days and the call recipient had not provided prior express written consent to receive the calls. The Released Claims also include claims for injunctive relief. In other words, if you participate in the Settlement, you will not be able to sue Defendants to change their practices. The Release applies to claims for injunctive relief against all Defendants even though Defendants Freedom Financial Network, LLC, Freedom Debt Relief, LLC, and Lead Science, LLC did not agree to practice changes as a result of the Settlement. Plaintiffs and Defendants believe this is fair because (1) this case alleges that Fluent, Inc. failed to obtain valid prior express written consent to place telemarketing calls selling Freedom Financial Network, LLC and Freedom Debt Relief, LLC's services; (2) Freedom Financial Network, LLC and Freedom Debt Relief, LLC no longer obtain telemarketing leads from Fluent, Inc.; and (3) Lead Science, LLC no longer places pre-recorded calls in connection with any relationship it may have with Fluent, Inc.

The Settlement Agreement is between Plaintiffs and Defendants only. By participating in the Settlement, you **are not releasing** any claims for damages you may have against anyone else.

### **EXCLUDING YOURSELF FROM THE SETTLEMENT**

If you don't want a payment from this settlement and you want to keep the right to sue or continue to sue Defendants, 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.

## 10. How do I exclude myself from the settlement?

**Questions? Call Toll-Free 1-800-329-4562 or visit the website: [www.BermanTCPASettlement.com](http://www.BermanTCPASettlement.com).  
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To exclude yourself from the settlement, you must send a letter saying that you want to be excluded from the *Daniel Berman, et al. v. Freedom Financial Network, LLC, et al.* Settlement. You must sign the letter and include the following statement: “I request to be excluded from the settlement in the Freedom Financial action.” You must also include your full name, address, telephone number where you may be contacted, the telephone numbers you maintain were called, and your signature. Your exclusion request must be postmarked no later than **November 25, 2023, and must be mailed to:**

Berman TCPA Settlement  
Settlement Administrator  
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.

**11. If I don't exclude myself, can I sue Defendants for the same thing later?**

No. Unless you exclude yourself, you give up any right to sue Defendants 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 **November 25, 2023**.

**12. If I exclude myself, can I get anything from this settlement?**

No. If you exclude yourself, do not submit a claim to ask for payment.

**THE LAWYERS REPRESENTING YOU**

**13. Do I have a lawyer in this case?**

The Court has appointed Broderick Law, P.C., The Law Office of Matthew P. McCue, Paronich Law, P.C., and Terrell Marshall Law Group PLLC 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.

**14. How will the lawyers be paid?**

Class Counsel will ask the Court to approve payment of up to \$3,250,000 to them for attorneys' fees, which is one-third of the Settlement Fund, together with \$200,000 to cover out-of-pocket expenses. This payment would pay Class Counsel for their time investigating the facts, litigating the case, and negotiating the settlement. Class Counsel also will request the following service awards for the Plaintiffs: Daniel Berman: \$5,000, Stephanie Hernandez: \$5,000, Erica Russell: \$5,000. The Court may award less than these amounts.

**OBJECTING TO THE SETTLEMENT**

**15. How do I object to the settlement?**

If you remain a Settlement Class Member, you can ask the Court to deny approval by filing an objection. You can't ask the Court to order a different settlement; the Court can only approve or reject the settlement. If the Court

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denies approval, no settlement payments will be sent out, and the lawsuit will continue. If that is what you want to happen, you should object. Any objection to the proposed settlement must be in writing. If you file a timely written objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney.

All written objections and supporting papers must (a) clearly identify the case name and number (*Berman v. Freedom Financial Network, LLC*, Case No. 18-cv-01060-YGR), (b) include your name, telephone number, address, and the telephone number on which you received the telemarketing calls at issue in this case, (c) be submitted to the Court either by filing the objection electronically or in person at any location of the United States District Court for the Northern District of California or by mailing them to the address below, and (d) be filed or postmarked on or before **November 25, 2023**.

*Daniel Berman, et al. v. Freedom Financial Network, LLC, et al.*

Case No. 4:18-cv-01060

Class Action Clerk

U.S. District Court for the Northern District of California

1301 Clay Street, Suite 400 S

Oakland, CA 94612

#### 16. What's the difference between objecting and excluding myself from the settlement?

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

#### 17. When and where will the Court hold a hearing on the fairness of the settlement?

The Court will hold the final fairness hearing at **2:00 p.m. on February 20, 2024**, before the Honorable Yvonne Gonzales Rogers at the U.S. District Court for the Northern District of California, Courtroom One, 4th Floor, 1301 Clay Street, Oakland, CA 94612. 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 service award to the class representatives. 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, [www.BermanTCPASettlement.com](http://www.BermanTCPASettlement.com). You can also monitor case activity and changes to the dates and time of the fairness hearing by accessing the Court docket in this case through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, 1301 Clay Street, Oakland, CA 94612, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

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**18. Do I have to come to the hearing?**

No. 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 and 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.

**19. May I speak at the hearing?**

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 file an objection (*see* Question 15, above) and intend to appear at the hearing, you must state your intention to do so in your objection. You cannot speak at the hearing if you exclude yourself or if you fail to state your intention to do so in your objection.

**IF YOU DO NOTHING**

**20. What happens if I do nothing at all?**

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 Defendants about the claims in this case.

**21. Are there more details about the settlement?**

**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.BermanTCPASettlement.com](http://www.BermanTCPASettlement.com). You can also get a copy of the Settlement Agreement by contacting:

PLAINTIFFS' COUNSEL  
TERRELL MARSHALL LAW GROUP PLLC  
936 N 34<sup>TH</sup> STREET, SUITE 300  
SEATTLE, WA 98103  
206-518-6233

**22. How do I get more information?**

You can call 1-800-329-4562 toll-free or write to Berman TCPA Settlement Administrator, P.O. Box 173036, Milwaukee, WI 53217; or visit the Settlement Website at [www.BermanTCPASettlement.com](http://www.BermanTCPASettlement.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 can also call Class Counsel at 206-518-6233.

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