

# Exhibit 2

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

DANIELLE ROSENFELD and VINCENT  
GARCIA,  
on behalf of themselves and all others similarly  
situated,

*Plaintiffs,*

-against-

TARA LENICH; CITY OF NEW YORK; LU-  
SHAWN M. THOMPSON, AS  
ADMINISTRATOR OF ESTATE OF  
KENNETH P. THOMPSON; ERIC  
GONZALEZ; MARK FELDMAN; WILLIAM  
SCHAEFER; BRIAN DONOHUE; WILLIAM  
POWER; MICHAEL DOWLING; JOSEPH  
PIRAINO; and ROBERT KENAVAN,

*Defendants.*

18 CV 6720 (NGG) (PK)

**SETTLEMENT AGREEMENT**

**THIS CLASS ACTION LAWSUIT SETTLEMENT**

**AGREEMENT** is made and entered into as of the 7th day of August 2020, by and among Defendants City of New York, Lu-Shawn Thompson as Administrator for the Estate of Kenneth P. Thompson, Eric Gonzalez, Mark Feldman, William Schaeffer, Brian Donohue, William Power, Michael Dowling, Joseph Piraino, and Robert Kenavan (collectively, “City Defendants”); and Named Plaintiffs Danielle Rosenfeld and Vincent Garcia (“Class Representatives” or “Named Plaintiffs”), on behalf of themselves and the plaintiff class of which they are Class Representatives (collectively, the “Plaintiffs”) (altogether, the “Parties”).

**WHEREAS**, on November 26, 2018, the Named Plaintiffs filed a Complaint pursuant to 18 U.S.C. § 2520, alleging violations of the Federal Wiretap Act against Tara Lenich and the City Defendants; and

**WHEREAS**, City Defendants have denied any and all liability arising out of Plaintiffs' allegations; and

**WHEREAS**, the Parties now desire to resolve the issues raised in this litigation without further proceedings and without admitting any fault or liability; and

**WHEREAS**, the terms of this Settlement Agreement ("Agreement") were extensively and vigorously negotiated in good faith with supervision of The Honorable Peggy Kuo, U.S.M.J.; and

**WHEREAS**, the negotiations have resulted in this Agreement, which, subject to the approval of the Court, settles this Civil Action in the manner and upon the terms set forth below; and

**WHEREAS**, the signatories hereby represent that they are fully authorized to enter into this Agreement and to bind the Parties and the Class Members to the terms and conditions hereof, subject to Court approval.

**NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED**, by and between the undersigned, as follows:

#### **INTRODUCTION**

1. The Parties consider this Agreement to be fair, reasonable, and adequate.

2. City Defendants deny any and all liability and deny that they had or have a policy, or engaged in or currently engage in, a pattern or practice that deprived persons of rights, privileges, or immunities secured or protected by the Constitution and laws of the United States and the State of New York or by statute.

3. This Agreement does not, and shall not be deemed to, constitute an admission by City Defendants as to the validity or accuracy of any of the allegations, assertions, or claims made by Plaintiffs. This Agreement does not constitute an admission, adjudication, or finding on the merits of this Civil Action.

4. This Agreement shall not be admissible in, nor is it related to, any other litigation or settlement negotiations, except to enforce the terms of this Agreement.

5. Class Counsel has extensively investigated and litigated the claims asserted in this Civil Action and—taking account of the contested issues involved, the expense and time necessary to prosecute the Civil Action through trial, the risks and costs associated with further prosecution of the Civil Action, the uncertainties of complex litigation, the financial constraints on City Defendants, and the substantial benefits to be received pursuant to this Agreement – are sufficiently informed and satisfied that the terms of this Settlement Agreement are an appropriate and fair resolution of the Class Members’ claims.

## DEFINITIONS

The terms described below shall have the meanings defined in this Section wherever used in this Agreement, and for the purposes of this Agreement only.

6. “ADACS” refers to the software used by the Kings County District Attorney’s Office in which the wiretaps (also referred to as “plants”) on the cellular telephones of Stephanie Rosenfeld and Jarrett Lemieux were operated.

7. “Administrative Costs” are the fees, charges, and expenses incurred by the Claims Administrator in connection with or related to the implementation, administration, or performance of any of the duties of the Class Administrator set forth in this Agreement.

8. “Bar Date” is the date established by the Court by which any presumptive Class Member who wishes to receive payment pursuant to this Agreement must submit a Claim Form, subject to the exceptions set forth in Paragraph 70 below. The Parties agree that this date should be 90 days from the date the Notice and Claim Form is mailed to the Settlement Class.

9. “City” means the City of New York.

10. “Civil Action” means the litigation captioned *Rosenfeld, et al. v. City of New York, et al.*, Case No. 18 CV 6720, before The Honorable Nicholas G. Garaufis and The Honorable Peggy Kuo in the United States District Court for the Eastern District of New York.

11. “Claims Administrator” means the Claims Administrator appointed by the Court. The Parties agree that they will recommend RG2 Claims

Administration LLC to serve as the Claims Administrator. The Claims Administrator's duties are defined below, in Paragraphs 59 through 77.

12. "Claim Form" means the form agreed to by the Parties that Class Members must complete and submit in order to receive payment from this Settlement. A copy of the proposed Notice and Claim Form is attached hereto as Exhibit A.

13. "Class Counsel" means Emery, Celli, Brinckerhoff Abady Ward & Maazel LLP, and Wiggin and Dana LLP.

14. "Class Fund" means the \$3,200,000.00 (Three Million Two Hundred Thousand Dollars) that the City shall pay on the Effective Date to the Claims Administrator, less any money advance to the Claims Administrator. This amount shall be used to pay all claims by the Class Members, all attorney's fees and costs, and all Administrative Costs, in satisfaction of all claims of Class Members. Any money not so claimed shall be handled in accordance with Paragraph 47.

15. "Class Member" means any member of the Settlement Class.

16. "Class Period" means the period commencing on June 9, 2015 and ending on November 27, 2016.

17. "Class Representatives" or "Plaintiffs" or "Named Plaintiffs" means Danielle Rosenfeld and Vincent Garcia.

18. "Counsel for Defendants" means the New York City Law Department, Office of the Corporation Counsel.

19. “Court” means the United States District Court for the Eastern District of New York.

20. “City Defendants” means the City of New York, Lu-Shawn Thompson as Administrator for the Estate of Kenneth P. Thompson, Eric Gonzalez, Mark Feldman, William Schaeffer, Brian Donohue, William Power, Michael Dowling, Joseph Piraino, and Robert Kenavan.

21. “Effective Date for Payment” or “Effective Date” is the date on which the City must deposit the Class Fund of \$3,200,000.00 (Three Million Two Hundred Thousand Dollars) with the Class Administrator, less any portion of the Class Fund that has already been advanced to the Administrator pursuant to Paragraph 50. The effective date for payment is fifteen (15) business days following either the expiration of the time for an appeal of the Final Approval Order, or if an appeal is taken, the affirmance of the Court’s Final Approval Order.

22. “Final Approval Order” means an Order by the Court, after a fairness hearing, granting Final Approval to this Settlement Agreement, approving Class Counsel’s fees and costs, approving the Administrative costs, approving Service Award Payments, and dismissing the Civil Action with prejudice.

23. “Final Approval Hearing” or “Fairness Hearing” means the hearing to be scheduled by the Court to determine, among other things, whether the Court should approve the proposed Settlement as fair, reasonable and adequate.

24. “Final Approval Date” means the date of entry by the Court of the Final Approval Order.

25. “Institutional Number” means a telephone number registered to an account owned by a business, association, organization, governmental entity, or any other entity that is not a human being.

26. “Interception” refers to a communication between the telephone of a Class Member and the cellular telephone of either Stephanie Rosenfeld or Jarrett Lemieux that was intercepted and recorded in ADACS.

27. “Metadata” refers to the information downloaded and produced in discovery for the Civil Action that identifies the interceptions made by ADACS for the wiretap or plant on the cellular telephones of Stephanie Rosenfeld or Jarrett Lemieux.

28. “Number of Interceptions” refers to the total number of Interceptions, as defined in Paragraph 26.

29. “Opt-Out” is any potential Class Member who files a timely written request to be excluded from the Class, in accordance with the requirements set forth in Paragraph 78.

30. “Parties” means Plaintiffs and City Defendants.

31. “Preliminary Approval Date” means the date of entry of the Preliminary Approval Order.

32. “Preliminary Approval Order” means the Order entered by the Court preliminarily approving this Settlement Agreement, scheduling a Fairness Hearing, approving a plan of notice to the Class, appointing the Class Administrator, and class administration.



33. “Released Claims” means any and all past or present claims or causes of action (including any suits, petitions, demands or other claims in law, equity or arbitration), and any and all allegations of liability or damages, of whatever kind, nature or description, direct or indirect, in law, equity or arbitration, absolute or contingent, whether class or individual in nature, including both known claims and unknown claims, asserted or unasserted, for monetary and non-monetary relief (including without limitation attorneys’ fees, costs or disbursements incurred by the Class Representatives and/or the Class or any Class Member in connection with or related to the Civil Action), alleging an unlawful interception caused by defendant Tara Lenich’s unlawful wiretapping scheme on Stephanie Rosenfeld and Jarrett Lemieux’s cellular telephones that were or could have been asserted by the Class Representatives and/or any Class Member against the City Defendants and any of their parents, subsidiaries, affiliates, predecessors, successors and/or assigns and in the case of all such entities, their respective past and present representatives, officers, directors, attorneys, agents, employees, privies and insurers (collectively defined as the “Released Parties”), including any and all claims asserted in the original and subsequently amended complaints filed in the Civil Action. This Release does not include or cover any actions or omissions occurring either before or after the Class Period, nor does it include or cover any claims stemming from any certified class action, other than this Civil Action, in which a Class Representative or Class Member in this Civil Action already is a member of the class.

34. “Released Parties” means any and all City Defendants, namely the City of New York, Lu-Shawn Thompson as Administrator for the Estate of Kenneth P. Thompson, Eric Gonzalez, Mark Feldman, William Schaeffer, Brian Donohue, William Power, Michael Dowling, Joseph Piraino, and Robert Kenavan, and any of their parents, subsidiaries, affiliates, predecessors, successors and/or assigns and in the case of all such entities, their respective past and present representatives, officers, directors, attorneys, agents, employees, privies and insurers.

#### **CLASS CERTIFICATION**

35. The Parties agree to the certification of a class pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure and Plaintiffs will seek such certification at the fairness hearing on this Settlement.

#### **SETTLEMENT CLASS DEFINITION**

36. The “Settlement Class” is defined as:

*All persons or entities, including the Class Representatives, whose wire or electronic communications with Stephanie Rosenfeld’s personal cellular phone and/or with Jarrett Lemieux’s personal cellular phone were intercepted using the ADACS system at the Kings County District Attorney’s Office during the Class Period. An entity—i.e., a non-human person—is part of the Settlement Class only if the human person who used the entity’s phone number to communicate with Stephanie Rosenfeld’s personal cell phone and/or Jarrett Lemieux’s personal cell phone cannot be identified. Excluded from the Settlement Class are the City Defendants, Class Counsel, Stephanie Rosenfeld, and Jarrett Lemieux.*

#### **NOTICE PLAN**

37. Direct Mailing: Notice of this Civil Action and the Claim Form shall be provided to potential Class Members via direct mailing to all

individuals whose wire or electronic communications with Stephanie Rosenfeld's cellular telephone or Jarrett Lemieux's cellular telephone were intercepted by Lenich's unlawful wiretapping scheme during the Class Period. The address used for the initial mailing shall be the address associated with the telephone number listed in the Metadata downloaded from the ADACS. Where the address associated with a telephone number is associated with an entity as opposed to a human being, the Notice and Claim Form shall be sent to the entity only if the human being who used the entity's phone number to communicate with Stephanie Rosenfeld's personal cell phone and/or Jarrett Lemieux's personal cell phone cannot be identified by name through the process described in paragraph 48. If the human being who used the entity's phone number to communicate with Stephanie Rosenfeld's personal cell phone and/or Jarrett Lemieux's personal cell phone can be identified by name, the Notice and Claim Form shall be sent to such human being, who is the Class Member. All addresses used for mailing the Notice and Claim Form shall be run through the national change of address database and updated accordingly prior to any mailing by the Administrator. The City, including the Kings County District Attorney's Office, agrees to use all databases it can lawfully access to identify telephone numbers belonging to the City of New York and/or the Kings County District Attorney's Office. Plaintiffs and Class Counsel shall request that Stephanie Rosenfeld and Jarrett Lemieux review the telephone numbers listed in the Metadata and identify the individuals associated with those telephone numbers by reference to their respective knowledge, memory, phone books, contact lists, and/or records. The Parties agree to, if necessary, jointly seek

Court orders or subpoenas to identify current addresses for Class Members that cannot be otherwise identified.

38. Telephonic Notice: The Claims Administrator shall call all Class Members to notify them of the Civil Action and this Settlement. The calls shall be conducted by live persons according to a script agreed to by the Parties, attached as Exhibit B. In addition, the Claims Administrator shall contact Class Members by text message using a script agreed to by the Parties, attached as Exhibit C. For Class Members that cannot otherwise be identified, and the Parties agree to, if necessary, jointly seek Court orders or subpoenas to identify current telephone numbers for Class Members that cannot otherwise be identified.

39. At least five (5) days before the Final Approval Hearing, Class Counsel shall file or cause to be filed with the Court a declaration confirming that Notice was provided consistent with this Settlement Agreement and any Preliminary Approval Order entered by the Court.

#### **ATTORNEYS' FEES AND ADMINISTRATIVE COSTS**

40. Class Counsel will make an application seeking Court approval for attorneys' fees of up to \$1,066,666.66. City Defendants reserve the right to respond to Counsel's application for attorneys' fees up to \$1,066,666.66. The amount awarded to Class Counsel shall be paid from the Class Fund of \$3,200,000.00 (Three Million Two Hundred Thousand Dollars).

41. The Parties have agreed that the Administrative Costs shall be paid out of the Class Fund. The Claims Administrator will submit monthly statements of expenses to Class Counsel and the City. A copy of the Claims

Administrator's final accounting shall also be provided to the City and Class Counsel.

#### **CLASS REPRESENTATIVE SERVICE AWARD PAYMENTS**

42. Subject to the Court's approval, the City agrees to pay awards for the services provided to the Class by the Class Representatives—including engaging in discovery—as follows: Fifteen Thousand Dollars (\$15,000) to Plaintiff Danielle Rosenfeld; and Fifteen Thousand Dollars (\$15,000) to Plaintiff Vincent Garcia. These service award payments shall constitute the only amount payable to the Class Representatives, and the Class Representatives are prohibited from claiming any amounts otherwise due to them with respect to their individual claim as Class Members. The Service Award Payments shall be paid out of the Class Fund.

#### **CLAIMS AWARDS TO CLASS MEMBERS AND CLAIMS PROCESS**

43. Subject to the terms and conditions of this Agreement, the City agrees to pay up to Three Million, Two Hundred Thousand Dollars (\$3,200,000.00) which shall be used to pay damages to Class Members as described herein, less the Administrative Costs, payments to Class Representatives, and the attorney's fees and costs approved by the Court.

44. Class Members who timely submit a Claim Form and who are part of the Settlement Class will be entitled to receive payments to be calculated according to paragraph 45.

45. Within 45 days of the Bar Date, the Administrator shall determine the value of each Class Member's payment, pursuant to the following formula:

- a. Class Members who had one (1) phone call or text message intercepted during the Class Period shall receive six (6) Award Units;
- b. Class Members who had between two (2) and ten (10) phone calls and/or text messages intercepted during the Class Period shall receive seven and one-half (7.5) Award Units;
- c. Class Members who had between eleven (11) and one hundred (100) phone calls and/or text messages intercepted during the Class Period shall receive ten (10) Award Units;
- d. Class Members who had one hundred and one (101+) or more phone calls and/or text messages intercepted during the Class Period shall receive fifteen (15) Award Units;
- e. Each Award Unit will have an equal monetary value, determined by dividing the Net Settlement Fund (calculated and defined as the total Settlement Fund less Administrative Costs, attorney's fees and costs, and Service Awards) by the total number of Award Units (calculated based upon the number of interceptions of eligible claiming Class Members), except that the value of an Award Unit may not exceed \$1,000;

- f. Each Class Member payment shall be calculated by multiplying the number of Award Units to which the Class Member is entitled by the monetary value of the Award Unit as calculated in subparagraph (e) above.
- g. The number of interceptions shall be established based on the Metadata downloaded from ADACS.

46. Award checks for Class Members shall be valid for sixty (60) days after issuance. If a check is returned as undeliverable to the Claims Administrator within the sixty day period after issuance (“Returned Award Checks”), the Claims Administrator will make one (1) attempt at re-mailing to the address on file or to any updated address determined by the Claims Administrator using the national change of address registry.

47. Monies remaining in the Settlement Fund on account of uncashed award checks and any interest earned on the monies in the Settlement Fund will belong and be paid to the City 200 days after the Effective Date of Payment.

48. If the account associated with a telephone number is registered or subscribed to a business, entity, organization, association, or governmental agency (“Institutional Numbers”), Class Representatives and City Defendants shall endeavor to identify the individual who conducted the communication for all telephone numbers belonging to the City of New York and/or the Kings County District Attorney’s Office by identifying the person for whom the telephone number was assigned or registered. The individual conducting the communication with

Stephanie Rosenfeld or Jarrett Lemieux shall be the Class Member for purposes of this Settlement, unless no individual can be identified, in which case the business, entity, organization, association, or governmental agency shall be the Class Member. Class Representatives shall cause Stephanie Rosenfeld and Jarrett Lemieux to identify individuals they recall communicating with through the Institutional Numbers by reviewing the Institutional Numbers in the Metadata and identifying the individuals with whom they communicated in a sworn declaration or affidavit.

49. Any funds remaining of the \$3,200,000.00 after payment of Administrative Costs, payment of Court-approved attorneys' fees, and award payments to Class Members according to the terms of this Agreement, will revert to the City of New York 200 days after the Effective Date for Payment.

#### **FUNDING OF THE SETTLEMENT**

50. No later than fourteen (14) days after the Preliminary Approval Order, the City shall deposit or cause to be deposited into a bank account designated by the Claims Administrator Fifty Thousand Dollars (\$50,000.00) to cover the costs of the Notice agreed to by the Parties and/or ordered by the Court. Any such payment shall be debited against the Administrative Costs. If the Settlement is not ultimately approved by the Court, then all such funds paid to the Administrator, to the extent they are available after payment of all accrued Administrative Costs up to that point, shall be returned to the City.

51. Subject to the terms and conditions of this Agreement and the approval of the Court, on the Effective Date for Payment, the City shall deposit or



cause to be deposited into a bank account designated by the Claims Administrator, the Class Fund less the amount previously deposited.

52. All Court-approved attorneys' fees and costs shall be immediately payable to Class Counsel once (a) the Class Fund has been deposited into the bank account designated by the Claims Administrator, and (b) Class Counsel has sent City Defendants' counsel all documents necessary to effect such payments to them, including a W-9 form.

53. All payments to the Class Representatives shall be immediately payable once (a) the Class Fund has been deposited into the bank account designated by the Claims Administrator, and (b) the Class Representatives have delivered to the City Defendants' Counsel all documents necessary to effect such payments to them, including, without limitation, General Releases for the service award payments, Affidavits of Status of Liens, and W-9s. The Class Representatives shall each deliver to the City Defendants' Counsel an Affidavit of Status of Liens within 135 day of the Preliminary Approval Date. Prior to tendering the requisite documents, Medicare-recipient Class Representatives must obtain and submit a final demand letter from their Medicare provider(s) for the reimbursement of any conditional payments made for the injuries claimed in this matter, if any. A Medicare Set-Aside Trust may also be required if future anticipated medical costs are found to be necessary pursuant to 42 U.S.C. § 1395y(b) and 42 C.F.R. §§ 411.22 through 411.26.

54. In the event that the Final Approval Order is appealed by any party, individual, and/or entity, the City will deposit the Class Fund less any

Administrative Costs that have been advanced in an interest bearing escrow account within fifteen (15) days of the filing of a Notice of Appeal, and the interest accrued shall be added to the Class Fund for the benefit of the Settlement Class in the event that the Settlement is finally approved and entered as a judgment. Should the Settlement not be finally approved after exhaustion of all appellate avenues, all such funds, including interest earned on them, shall be returned to the City (except for Administrative Costs already expended by the Administrator). Should the Settlement not be finally approved, or if for any other reason there is a delay in immediate payment by the City, the City shall have no claim for the funds advanced and expended by the Claims Administrator.

55. No payment shall be made to eligible Class Members before the Effective Date for Payment.

56. Within ninety (90) days of the Final Approval Order or the affirmance of that Order on appeal, the Claims Administrator will pay Class Counsel any amount awarded as attorneys' fees by the Court, if neither party appeals the Court's award of attorneys' fees. Plaintiffs' Counsel shall execute and deliver to the City Defendants' Counsel all documents necessary to effect such payments to them, including W-9s.

57. The Parties shall propose to the Court for approval the following settlement schedule:

- Notice given to the Class: 45 days after the Preliminary Approval Date;

- Deadline to Object/Opt out: 135 days after the Preliminary Approval Date;
- Deadline to submit Claim Forms (Bar Date): 135 days after the Preliminary Approval Date;
- Deadline to move for Final Approval and attorneys' fees and costs: 200 days after the Preliminary Approval Date;
- Final Approval Hearing: 230 days after the Preliminary Approval Date.

58. The City Defendants agree not to oppose Plaintiffs' motion for Preliminary Approval or Plaintiffs' motion for Final Approval.

#### **CLAIMS ADMINISTRATOR**

59. The Claims Administrator shall manage and oversee the identification of potential Class Members.

60. The Claims Administrator shall (1) trace Class Member phone numbers to names, addresses, and email addresses; (2) transmit the Notice and Claim Forms to Class Members by means approved by the Court; (3) where possible, email the Notice, including a link to the online Claim Form, to Class Members; (4) run all Class Member addresses through the national change-of-address database; (5) follow up with returned mailings by performing additional tracing and re-mailing Notice and Claim Form as necessary (6) establish a website on which it shall post, among other things: (a) a notice that is, in sum and substance, similar to the Notice; (b) an online Claim Form; (c) the Settlement Agreement;

(d) the filings seeking approval of the proposed Settlement and any responsive papers; (e) Class Counsel's Attorneys' Fees and Expenses Application(s), after it is submitted to the Court; (f) the operative Complaint; (g) the Court's Preliminary Approval Order and any subsequent orders of the Court relating to the Settlement; and (h) such other materials as Class Counsel determines should be posted and where Class Members can ask, and receive responses to, questions; (7) establish a toll-free phone number through which Class Members can ask, and receive responses to, questions; (8) call and text message Class Members to inform them of the Settlement and their right to receive an award using a live caller and a script and scripted text messages agreed to by the Parties; (9) respond to questions from Class Members; (10) review and assess the validity of information in the Claim Forms submitted by Class Members; (11) follow up with Class Members who submitted Claim Forms that do not include all necessary information (12) calculate the amounts of payments to the individual Class Members consistent with this Agreement; (13) apply for a tax ID number, as necessary (14) withhold taxes as appropriate from Class Member payments; (15) arrange for and distribute checks containing payments to Class Members as set forth in this Agreement; (16) follow up with mailings and telephone calls to Class Members who did not cash their checks; (17) re-issue uncashed checks, as necessary; (18) arrange to return to the City any amounts from the Class Fund that revert pursuant to the terms of this Agreement; (19) create a database of Class Members who have filed timely Claim Forms (20) create a database of Opt-Outs; (21) deduct any applicable liens from the Claim Awards and forward these deductions to the City Comptroller's Office or

any other relevant agencies as set forth in Paragraph 71; and (22) perform any other duties necessary to fulfill the foregoing responsibilities and any other responsibilities set forth in this Agreement.

61. Any response by the Claims Administrator to any inquiry made by Class Members through the toll-free phone number or the website shall be based solely on the contents of the Notice and Claim Form and/or Phone Script. If a response cannot be made based on these documents, the Claims Administrator shall transmit the inquiry to counsel for all Parties to this Agreement for review and response.

62. The City and Class Representatives agree to facilitate the work of the Claims Administrator by, among other things, obtaining and providing to the Claims Administrator, information, and data, in the City's, Plaintiffs', and Class Counsel's possession, which are relevant and appropriate to facilitate the administration of the Class Fund, to the extent such information is disclosable to the Claims Administrator under federal, state and/or local laws. The City, including the Kings County District Attorney's Office, shall use any and all information and databases it may lawfully access for the purpose of identifying names, addresses, email addresses, and current telephone numbers, where possible, for all Class Members utilizing telephone numbers owned by the City and/or the Kings County District Attorney's Office. The Parties further agree, if necessary, to jointly seek Court orders or subpoenas to obtain information necessary to identify names, addresses, and current telephone numbers of Class Members.

63. Within three (3) days of the Preliminary Approval Date, the City will provide the Claims Administrator with the Metadata from ADACS. Within twenty (20) days of the Preliminary Approval Date, the City shall provide the Claims Administrator and Class Counsel with a list of telephone numbers contained in the Metadata which are owned by the City of New York and/or the Kings County District Attorney's Office, and the names of all individuals assigned or registered to those telephone numbers along with addresses, email addresses, and current telephone numbers, where possible. Also, within twenty (20) days of the Preliminary Approval Date, Class Counsel shall provide the Claims Administrator and counsel for the City Defendants with any contact information regarding Class Members that can be obtained from the Class Representatives, Stephanie Rosenfeld, or Jarrett Lemieux.

64. The Parties agree that the confidentiality of the communications that were intercepted is of paramount importance. The Parties agree that the intercepted communications shall not be disclosed to anyone absent an order of a court of competent jurisdiction or pursuant to a grand-jury subpoena. In the event that the Kings County District Attorney's Office is served with such a court order or grand-jury subpoena providing for or requiring disclosure of any intercepted communications, is served with an application seeking such an order or grand jury subpoena, or the Kings County District Attorney's Office determines that review and/or disclosure is necessary to comply with an obligation under the New York Criminal Procedure Law or the United States and/or New York State Constitutions, the Kings County District Attorney shall provide notice to Class Counsel before

reviewing or disclosing the intercepted communications, in a manner consistent with the terms set forth in the Settlement Agreement entered in the matter of *Lemieux v. Lenich, et al.*, 18 CV 6721 (NGG) (PKK) (E.D.N.Y.), at D.E. 66, Attachment Number 1 (“Exhibit A: Settlement Agreement”), ¶ 7. This provision shall not apply if the court order or grand jury subpoena calls only for the communications of non-Class Members or Class Members who opt out of this Settlement. Class Counsel shall not be entitled to seek any costs or attorneys’ fees from the City Defendants for any receipt of such a notice under this provision or any subsequent activity regarding the disclosure at issue should it be permitted. The Parties agree and stipulate that any lawful review and/or disclosure of the Intercepted Communications pursuant to a court order or grand jury subpoena shall not subject City Defendants, their officials, employees, successors, assigns, representatives, or agents to any liability for breach of this Agreement or 18 U.S.C. s 2520 and 18 U.S.C. s 2707.

65. Information provided to the Claims Administrator shall be confidential and shall be subject to all confidentiality and protective orders entered in this action, to the extent permitted by law, and may not be disclosed to anyone except Class Counsel, City Defendants’ Counsel, certain City agencies (including, but not limited to, Kings County District Attorney’s Office, New York City Police Department, New York City Human Resources Administration (“HRA”), New York City Department of Finance (“DOF”), and the New York City Comptroller’s Office), the Claims Administrator, or the Court under seal. Class Counsel, City Defendants’ Counsel and the Claims Administrator shall not disclose the

confidential information to any person not a member of their staff and only when necessary to facilitate the terms and conditions of this Settlement. To facilitate City Defendants' release of personal identifying information of the Class Members, the Parties hereby request that all protective orders previously entered by the Court be extended to the release of the information in the City's possession to the Claims Administrator, HRA, DOF, City Comptroller's Office, and any other relevant City agency. In addition, the information provided to Class Counsel and the Claims Administrator regarding the proposed Class Members and eligible Class Members will not be used for any other purpose other than in this Civil Action and for the administration of this Agreement.

66. The Claims Administrator will apply for a tax ID number, if necessary, and will take all necessary steps for the timely creation of the Class Fund bank account prior to the Effective Date of Payment.

67. The Claims Administrator shall provide the City with the Employer Identification Number for the Class Fund bank account, and a completed W-9 Form and bank routing information for the Class Fund bank account fifteen (15) days prior to the Effective Date of Payment.

68. The Claims Administrator will treat income taxes as the first priority for payment, and therefore, shall, on a quarterly basis, set aside an amount sufficient to pay all income taxes, if any, owed by the Class Fund bank account on interest earned to date. The Claims Administrator shall pay all income taxes, if any, on a quarterly basis. The City Comptroller's Office shall have the right to inspect and copy all tax forms (and worksheets), and monthly bank statements of the Class



Fund bank account. Neither the City nor Class Counsel nor the Class Representatives will be responsible for taxes, penalties, or interest incurred on the Class Fund. The Claims Administrator shall issue all required IRS forms.

69. Within forty-five (45) days of the Preliminary Approval Date, the Claims Administrator shall mail by first class mail, postage prepaid, to all Class Members a copy of the Notice and Claim Form.

70. Class Members must submit a completed Claim Form to the Claims Administrator by the Bar Date unless such date is extended by order of the Court. The Administrator shall reject claims that are untimely, unless a Class Member can establish good cause for submitting a late Claim Form within fifty-days of the Bar Date. Good cause shall be determined by the Claims Administrator in consultation with the Parties; the affected Class Member, Class Counsel and City Defendants' Counsel shall each have the right to appeal the Claims Administrator's determination of good cause to the Court. If a Class Member is identified or located forty-five (45) days prior to the Bar Date or later, the Class Member shall have forty-five (45) days from the date the Notice and Claim Form is mailed to him/her to submit a Claim Form. A Claim Form is deemed submitted upon deposit in a postpaid properly addressed wrapper, in a post office or official depository under the exclusive care and custody of the U.S. Post Office, when submitted for delivery by a commercial express carrier, when submitted online at the Settlement website, or when actually received by the Claims Administrator, whichever date is earlier.

71. Every thirty (30) days, after the Preliminary Approval Date, the Claims Administrator shall provide the Parties a list of those persons who are

preliminarily eligible so that the City may on a rolling basis determine whether that person's Award Amount will need to be reduced due to New York child support liens. No benefits currently received by eligible Class Members may be terminated or reduced as a result of Claims Awards unless required by federal or state law or regulation. This does not constitute a waiver of any right to separately recoup overpayments or any amounts owed solely to federal or state governments if such is required by federal or state law or regulation. Within sixty (60) days of the Bar Date, the Claims Administrator shall provide the Parties with the final list of those persons preliminarily eligible to receive payment under this Settlement. Within thirty (30) days of receiving the final list of those persons preliminarily eligible to receive payment under this Settlement, the City shall provide the Claims Administrator and Class Counsel with a list of those persons who have New York child support liens and the amount that shall be deducted from each persons' payment by the Claims Administrator to be forwarded to the beneficiary of the child support lien by the City Comptroller's Office. Prior to providing this list, the City shall send each person owing child support liens a notice describing that they owe these liens and information on how to file a challenge regarding the deduction of the child support liens from the Claims Award. If the City later determines that the amount of the liens was incorrect, the City shall directly pay the Class Member the over-deduction of the amount that was withheld from that Class Member's award. The Claims Administrator shall follow the same procedure set forth herein to the extent that parking violation liens will be assessed against any claim payment by

the Department of Finance. The Parties agree to work in good faith to not have DOF assert parking violation liens against any claim payment.

72. Any eligible Class Member who fails to submit a Claim Form by the Bar Date, any court mandated extension, or who fails to qualify for a late submission pursuant to Paragraph 70, shall be forever barred from receiving payments pursuant to the Agreement except with the consent of the Parties. Such person shall be bound by all of the terms of the Agreement, and the Judgment entered herein, including but not limited to the release of all Released Persons of all settled class claims as defined in Paragraphs 33-34.

73. The Administrator shall mail letters and telephone Class Members who by the Bar Date submit deficient or partially completed Claim Forms to provide them up to thirty (30) additional days to validate their Claim Forms. If such a Claim Form is resubmitted within thirty (30) days of the date the Class Member receives notice that the originally submitted Claim Form is incomplete, the resubmitted Claim Form shall be deemed timely submitted.

74. Rights and claims hereunder shall survive the death of eligible Class Members. If an eligible Class Member who is eligible to receive monetary relief under this Agreement is deceased, the amount payable to such deceased eligible Class Member shall be paid to the appropriate representative of their estate. The representative of the estate shall provide proof of death and appropriate documentation to show that they are properly a representative of the estate. If the Claims Administrator determines, after reasonable opportunity has been given, that there is insufficient information or proof regarding the deceased person's estate to

permit such payment, the deceased person's share shall be distributed in accordance with the terms set forth in Paragraph 76 for the distribution of returned checks.

75. To the extent that the Claims Administrator and/or Class Counsel receive inquiries that they cannot resolve, the Claims Administrator and/or Class Counsel shall group such inquiries and submit them in writing to Class Counsel and a designated person at the Office of Corporation Counsel on a recurring basis, but not more often than a weekly basis. Results of a reasonable investigation of any such inquiry will be provided in writing to Class Counsel and the Claims Administrator. The Parties shall attempt to resolve any dispute arising out of any inquiry. If necessary, the dispute shall be submitted to the Court for resolution.

76. For any uncashed checks sent to Class Members, Class Counsel, on written notice to the City and the Court, shall have the discretion to: (a) reissue the check to the same Class Member within One Hundred and Eighty (180) Days of Effective Date for Payment; or (b) add the amount of the voided checks back to the Class Fund; or (c) issue checks to persons who make late claims for good cause shown as set forth in this Agreement. If permission is granted to make late claims for good cause shown, any amount due and owing attributable to New York child support liens, and if applicable parking violations liens, shall be deducted and forwarded to the City prior to any payment to an eligible Class Member who submitted a late claim.

77. The Claims Administrator is permitted for good cause shown (including proper documentation and proof of authority) to issue checks in the name of a person other than the eligible Class Member.

#### **EXCLUSION FROM THE SETTLEMENT CLASS**

78. Any potential eligible Class Member who wishes to be excluded from the Settlement Class must, within one hundred and thirty-five (135) days of the Preliminary Approval Date, mail a request to be excluded from the Settlement Class (“Request for Exclusion”) to the Claims Administrator. Any Request for Exclusion must be in writing and state the name, address, and telephone number (if any) of the person requesting exclusion and contain a clear statement communicating that such person elects to be excluded from the Settlement Class.

79. Originals of all Requests for Exclusion shall be retained by the Claims Administrator. Class Representatives will not request exclusion pursuant to this paragraph. A list of all eligible Class Members who submit timely Requests for Exclusion shall be filed with the Court. A list of all eligible Class Members who submit timely Requests for Exclusion, as well as a copy of the written Requests for Exclusions sent to the Claims Administrator, shall be provided to Class Counsel and City Defendants’ Counsel.

80. Any eligible Class Member who does not timely file a Request for Exclusion shall conclusively be deemed to have become an eligible Class Member and to be bound by this Agreement and by all subsequent proceedings, orders, and judgments herein.

## OBJECTIONS

81. Any Class Member who wishes to object to the fairness, reasonableness, or adequacy of the proposed Settlement, including Class Counsel's Attorneys' Fees and Expenses Application, may do so by filing an objection as set out in the Notice and described below. However, a potential Class Member who requests exclusion from the Settlement Class may not file an objection regarding the terms of the Settlement Agreement.

82. A Class Member who wishes to object must submit to the Claims Administrator at the address provided in the Notice his, her, or its objection(s), as well as the specific reason(s), if any, for each such objection and whether the Class Member wishes to speak at the Fairness Hearing. The objection must state whether it applies only to the objector, to a specific subset of the Class, or to the entire Class, and also state with specificity the grounds for the objection, including any legal support the Class Member wishes to bring to the Court's attention and any evidence the Class Member wishes to introduce in support of such objection. The Claims Administrator shall promptly send a copy of each objection it receives to Class Counsel and Counsel for City Defendants by email.

83. A Class Member's objection must include the name and docket number of this Action (as set out in the Notice) and must also include the following information about the Class Member: (a) name; (b) address; (c) telephone number; (d) email address, if available; and (e) signature.

84. All objections must be sent to the Claims Administrator within one hundred and thirty-five (135) days of the Preliminary Approval Date.

85. A Class Member may object on his, her, or its own, or through counsel hired at his, her, or its own expense.

86. Any attorney hired by a Class Member for the purpose of objecting to the proposed Settlement must serve a notice of appearance on Class Counsel and Counsel for City Defendants and e-file the notice of appearance using the Court's ECF system. The notice of appearance must be received by Counsel and filed with the Court no later than thirty (30) days before the Fairness Hearing.

87. Any Class Member who does not make an objection in the time and manner provided in this Agreement shall be deemed to have waived and forfeited any and all rights he, she, or it may have to object, and shall be foreclosed from making any objection to the fairness, reasonableness, or adequacy of the proposed Settlement unless otherwise allowed by the Court.

#### **APPEARANCE AT THE FAIRNESS HEARING**

88. Class Member attendance at the Fairness Hearing is not necessary. However, any Class Member who submits a timely written objection to the Claims Administrator in accordance with the requirements set out in this Agreement – and only such Class Members, unless otherwise allowed by the Court – may also appear at the Fairness Hearing either in person or through personal counsel retained at the Class Member's own expense.

89. Class Members who intend to appear at the Fairness Hearing on their own behalf must send a letter to the Claims Administrator notifying the Claims Administrator of his, her, or its intention to appear at the Fairness Hearing. Such letter must also include the following information about the Class Member:

(a) name; (b) address; (c) telephone number; (d) email address, if available; and (e) signature. The Claims Administrator shall promptly send a copy of each letter it receives to Class Counsel and Counsel for City Defendants by email. This letter must be sent to the Claims Administrator within one hundred and thirty-five (135) days of the Preliminary Approval Date.

90. If a Class Member retains personal counsel (at the Class Member's expense) to appear on his, her, or its behalf at the Fairness Hearing, such counsel shall serve on Class Counsel and Counsel for City Defendants and e-file using the Court's ECF system a notice of intention to appear, which must be received by Counsel and the Court no later than thirty (30) days before the Fairness Hearing.

91. Any Class Member who does not submit a letter to the Claims Administrator or whose personal counsel does not file a notice of intention to appear with the Court in the time and manner provided in this Agreement shall be deemed to have waived and forfeited any and all rights he, she, or it may have to appear at the Fairness Hearing and shall be foreclosed from appearing at the Fairness Hearing unless otherwise allowed by the Court.

92. Any Class Member who submits an objection to the proposed Settlement shall be deemed to consent to the exclusive jurisdiction of the Court with respect to such objection and all issues that arise or relate to such objection, including any order issued or findings made by the Court regarding the objection.

93. Class Members do not need to appear at the hearing or take any other action to indicate their approval of the Settlement.



94. At the time Named Plaintiffs submit their motion seeking final approval of the Settlement, they shall also submit to the Court all of the timely requests for exclusion, objections, and Class Member letters indicating an intention to appear personally at the Fairness Hearing that have been timely submitted to the Claims Administrator.

95. Counsel for the Parties shall promptly inform each other of any submission served on them (or that otherwise comes into their possession) pursuant to Paragraphs 86 and 90.

### **RELEASES**

96. Within five (5) business days of when the Class Fund is deposited by the City (the Effective Date of Payment), all claims in this Civil Action will be dismissed, with prejudice, and without costs, expenses, or fees in excess of the amounts authorized by Paragraphs 40 and 41 above. Upon the Effective Date of Payment, in consideration for the agreements between the Parties and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, all Class Representatives and Class Members, on behalf of themselves, their heirs, executors, administrators, predecessors, successors and assigns shall hereby release, remise and forever discharge any and all of the City Defendants as well as their past or present affiliates, subsidiaries, parents, successors and predecessors, officers, directors, agents, employees, attorneys, advisors, insurers and any person, firm, trust, corporation, officer, director or other individual or entity in which any City Defendant has a controlling interest or which is related to or affiliated with any City Defendant, and the legal representatives,

heirs, successors in interest or assigns of the City Defendants, from each and every Released Claim, and shall forever be barred and enjoined from initiating, continuing, filing or otherwise prosecuting any Released Claim against any of the Released Parties. Unless a Class Member opts out of the Settlement pursuant to Paragraph 78 above, this release shall apply whether or not such Class Member has executed and delivered a Claim Form or otherwise actively participated in the Settlement.

97. Every Class Member, except for those who Opt-Out pursuant to Paragraph 78 above, shall be deemed to and shall have knowingly and voluntarily waived, released, discharged and dismissed the Released Claims, with full knowledge of any and all rights they may have, and they hereby assume the risk of any mistake in fact in connection with the true facts involved, or with regard to any facts which are now unknown to them. No Opt-Out shall share in any monetary benefits provided by this Agreement.

98. The Parties and Class Members acknowledge that the covenants and promises made by the City and City Defendants herein constitute adequate consideration in exchange for the Released Claims.

99. Nothing in this Agreement shall be construed to bar any claims of Class Representative or Class Members based on or arising out of events occurring outside of the Class Period. Nor shall anything in this Agreement be construed to bar any claims by Class Representatives or Class Members based on or arising out of claims in any certified class action, other than this Civil Action, in

which the Class Representative or Class Member already is a member of the certified class.

100. The Parties hereby agree not to appeal or challenge any aspect of this Agreement, or to otherwise collaterally attack or challenge this Agreement, except any award of attorneys' fees.

#### **MUTUAL FULL COOPERATION**

101. The Parties agree that they will fully cooperate with each other to effectuate and implement all terms and conditions of this Agreement and exercise good faith efforts to accomplish the terms and conditions of this Agreement.

#### **EFFECT OF THE AGREEMENT ON THE PENDING CIVIL ACTION AND CONTINUING JURISDICTION**

102. The Court, and any appellate court from which appeals of the Court's decisions may properly be brought, shall retain jurisdiction for the implementation and enforcement of the terms of this Agreement, and all Parties hereto and their counsel shall submit to the exclusive jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in this Agreement until thirty (30) days after the Claims Administrator has returned any remaining amount from the Class Fund, and/or certifies that all required disbursements have been paid and administration of the Class Settlement is complete.

103. Plaintiffs will take all necessary and appropriate steps to obtain approval of this Agreement and dismissal of this Civil Action with prejudice.

If the Court approves this Agreement, and if there is an appeal from such decision, City Defendants will join Plaintiffs in defense of this Agreement.

104. On or after the Final Approval Date, the Court will dismiss the above-captioned action, with prejudice and without costs, expenses, or fees in excess of the amount authorized by the Court or agreed upon by the Parties in accordance with Paragraphs 40 and 41 herein.

105. The terms of this Agreement shall be a full, final, and complete resolution of this Civil Action.

106. The Parties reserve their right to appellate review of the Court's decisions concerning compliance under this Agreement, as governed by applicable law.

#### **MODIFICATION OF THE AGREEMENT**

107. This Agreement represents the entire agreement among the Parties, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Agreement shall be deemed to exist, or to bind the Parties hereto, or to vary the terms and conditions contained herein, or to determine the meaning of any provisions herein. This Agreement can be modified only on the written consent of all the Parties.

#### **NOTIFICATION OF PARTIES UNDER THE SETTLEMENT AGREEMENT**

108. All notices contemplated by this Agreement, other than Notice to the Settlement Class pursuant to Paragraphs 37-38, shall be delivered by hand or by email.

### **COUNTERPARTS**

109. This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument, and will be binding when it has been executed and delivered by the last signatory. A facsimile or scanned signature is an original signature for purposes of this Agreement.

### **GOVERNING LAW**

110. This Agreement shall be governed by and construed and interpreted according to the laws of the State of New York without reference to conflicts of law principles.

### **MUTUAL INTERPRETATION**

111. The Parties stipulate that this Agreement was negotiated on an “arm’s length” basis between parties of equal bargaining power to resolve a bona fide dispute between the Parties concerning liability and the availability of damages. Also, Class Counsel and Counsel for City Defendants jointly drafted this Agreement. Accordingly, this Agreement shall not be construed in favor of or against any of the Parties. Neither Party shall be considered the drafter of this Agreement for purposes of interpreting the Agreement, or the application of any rule of construction.

### **BINDING UPON SUCCESSORS**

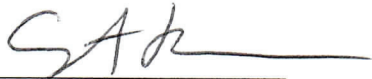
112. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective personal representatives, administrators, heirs, successors, and assigns.

**NULLIFICATION**

113. This Agreement is null and void in the event that any of the following do not occur:

- i. Preliminary Approval of this Agreement by the Court; or
- ii. Final Approval by the Court or an appellate court with jurisdiction.
- iii. Reversal on Appeal of Final Approval by the Court.

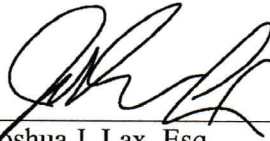
Dated: August 7, 2020  
New York, NY



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*Attorneys for Defendants*

# Exhibit A

[NAME]

[ADDRESS]

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UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

**You are entitled to receive a payment of between [\$4,536/\$5,670/\$7560/\$11,340] and [\$6,000/\$7,500/\$10,000/\$15,000] from a Settlement with the City of New York (the “City Defendants”).**

**To receive a payment, you must send a Claim Form that is received by the Administrator by [135 Days from Preliminary Approval]**

- This is a notice of a proposed settlement of the claims against the City Defendants in a class action lawsuit. You are receiving this notice because the City Defendants’ records indicate that a person, business or entity to which this notice is addressed is a Class Member who may be entitled to compensation. A federal court has authorized this notice and must approve any final settlement. This is not a solicitation from a lawyer. You are not being sued.
- From June 2015 through November 2016, a Prosecutor for the Kings County District Attorney’s Office, Tara Lenich, illegally intercepted phone calls and text messages sent to and from the cellular phones of two individuals, Detective Jarrett Lemieux and Assistant District Attorney Stephanie Rosenfeld. Under federal law, a person whose communications are illegally intercepted may sue and receive compensation. In November 2018, two individuals, Danielle Rosenfeld and Vincent Garcia, filed a putative class-action lawsuit on behalf of all others whose phone calls or text messages with Jarrett Lemieux and/or Stephanie Rosenfeld were illegally intercepted between June 1, 2015, and November 27, 2016. The lawsuit alleges that the City Defendants are liable for the illegal interceptions. City Defendants deny any wrongdoing and no court or jury has yet decided whether the claims have merit. However, in order to avoid the cost and risk of additional litigation, City Defendants have agreed to pay **\$3,200,000** (the “Settlement Fund”) to settle the case. The Settlement Fund will be used to provide compensation to Class Members who submit timely claim forms, as well as to pay attorneys’ fees and administrative costs. Defendant Tara Lenich is not included in this settlement.
- Records show that a communication that was sent to or from a telephone number associated with the person, business or entity to which this notice is addressed was intercepted by the illegal wiretap that is the subject of this lawsuit. Accordingly, that person, business or entity may be a Class Member who is entitled to receive compensation from the Settlement Fund if the settlement is approved by the Court.
- If the Settlement is approved, you are entitled to receive between **[\$4,536/\$5,670/\$7560/\$11,340]** and **[\$6,000/\$7,500/\$10,000/\$15,000]**. The amount you receive depends on two factors:
  - (1) **How many times you had a phone call or text message intercepted by the illegal wiretap.** Class Members with 1 interception are entitled to as much as \$6,000. Class Members with 2–10 interceptions are entitled to as much as \$7,500. Class Members with 11–100 interceptions are entitled to as much as \$10,000. Class Members with more than 100 interceptions are entitled to as much as \$15,000. The phone number associated with your name was intercepted [\_\_\_] time(s). Therefore, you are entitled to as much as **\$[\_\_\_\_\_]**.
  - (2) **How many Class Members submit timely claim forms.** In the event that the Settlement Fund is not sufficient to pay the full amount of each claim, as well as attorneys’ fees and costs and



- **To receive any money under the Settlement, you must submit the enclosed claim form, which must be received by the Administrator no later than [135 days from preliminary approval]**

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>		
<b>You May</b>		<b>Due Date</b>
<b>Submit a Claim Form</b>	<p><b><u>This is the only way for you to get a payment from the Settlement Fund.</u></b> By submitting a Claim Form to the Administrator, you will be entitled to receive a payment. However, you will give up your legal rights to bring further claims against City Defendants relating to Tara Lenich’s unlawful wiretap on Stephanie Rosenfeld’s and Jarrett Lemieux’s cellular telephones.</p>	<p><b>Sent By: [135 days from preliminary approval]</b></p>
<b>Exclude Yourself (“Opt Out”)</b>	<p><b><u>You will not get a payment from the Settlement.</u></b> This is the only way you will be able to be part of any other lawsuit seeking to recover damages from Defendants concerning Tara Lenich’s unlawful wiretapping scheme. All requests to exclude yourself must be made in writing and received by <b>[135 days from preliminary approval]</b>. <i>If you exclude yourself, you will not receive any money from this Settlement and you may be precluded by the relevant statute of limitations from bringing your own case.</i></p>	<p><b>Sent By: [135 days from preliminary approval]</b></p>
<b>Object to Settlement</b>	<p><b><u>You will remain a Class Member, but you may write to the Court about any part of the Settlement that you do not like.</u></b> You may also ask to speak in Court at the Fairness Hearing about your objection to the Settlement. If you object, you may still receive money from the Settlement Fund, but only if you submit a Claim Form by <b>[135 days from preliminary approval]</b>.</p>	<p><b>Sent By: [135 days from preliminary approval]</b></p>
<b>Do Nothing</b>	<p><b><u>You will not get a payment from the Settlement, and you will give up all your right to sue Defendants in connection with the illegal wiretaps conducted by Tara Lenich.</u></b></p>	<p><b>N/A</b></p>

**The Court in charge of this case will decide whether to approve the Settlement. Payments will be made only if the Court approves the Settlement and after any appeals are resolved.**

## BASIC INFORMATION

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

From June 2015 through November 2016, Tara Lenich, an Assistant District Attorney for the Kings County District Attorney's Office, illegally intercepted phone calls and text messages sent to and from the cellular phones of two individuals: Detective Jarrett Lemieux and Assistant District Attorney Stephanie Rosenfeld. In November 2018, two individuals, Danielle Rosenfeld and Vincent Garcia (the "Lead Plaintiffs"), filed a lawsuit on behalf of themselves and all others whose phone calls or text messages with Jarrett Lemieux and/or Stephanie Rosenfeld were illegally intercepted. According to records, a communication that was sent to or from a phone number associated with your name or the business to which this notice was addressed was intercepted on at least one occasion.

Lead Plaintiffs and the City Defendants have reached an agreement to settle this lawsuit. However, the Court must approve of the Settlement. The Court ordered Lead Plaintiffs and City Defendants to send you this Notice because you have a right to know (a) that Lead Plaintiffs and City Defendants have reached a proposed Settlement, and (b) all of your options before the Court decides whether to approve the Settlement. If the Court approves the Settlement, and after any objections and appeals take place, payments will be mailed to eligible Class Members whose claim forms are sent **by [135 days after Preliminary Approval]**.

This Notice explains the lawsuit, the Settlement, your legal rights, and what benefits are available. The Court overseeing this case is the United States District Court for the Eastern District of New York. This lawsuit is known as *Rosenfeld and Garcia v. Lenich, et al.*, No. 18-cv-5720 (NGG). This notice is specific to you. Other Class Members may be entitled to different amounts of money.

### 2. What is this lawsuit about?

This lawsuit is about the illegal wiretaps that Assistant District Attorney Tara Lenich placed on the cellular phones of Jarrett Lemieux and Stephanie Rosenfeld. Ms. Lenich was convicted of violating the federal Wiretap Act, so there is no doubt that she violated the rights of the individuals whose phone calls and text messages were intercepted. In this lawsuit, Lead Plaintiffs claim that the City of New York and several city officials are also responsible for Ms. Lenich's violation of the Wiretap Act. Defendants deny any wrongdoing or responsibility for Ms. Lenich's illegal acts. The Court has not decided whether Lead Plaintiffs' claims have merit. Defendant Tara Lenich is not included in this lawsuit.

### 3. Why is this a class action?

In a class action, one or more people (called "Lead Plaintiffs") bring a lawsuit and are appointed by the Court to sue on behalf of all people who have similar claims. Lead Plaintiffs in this case are Danielle Rosenfeld and Vincent Garcia. All of the people with similar claims are together called a "Class" and each person is a "Class Member." One court decides the issues for all Class Members – except for those who exclude themselves from the Class.

### 4. Why is there a Settlement?

The Court has not decided in favor of Lead Plaintiffs or City Defendants. Both Lead Plaintiffs and City Defendants believe they would have prevailed in the case, but there was no decision in favor of either party. Instead, Lead Plaintiffs and City Defendants agreed to a Settlement. That way, they avoid the cost and delays of a trial. Lead Plaintiffs and their attorneys think the Settlement is best for all Class Members.

## WHO IS IN THE SETTLEMENT AND LAWSUIT?

### 5. Who are the Defendants?

There are ten defendants in the lawsuit: The City of New York; LuShawn M. Thompson, as administrator of the estate of Kenneth P. Thompson; Eric Gonzalez; Mark Feldman; William Schaefer; Brian Donohue; William Power; Michael Dowling; Joseph Piraino; and Robert Kenavan. Kenneth P. Thompson was the King's County District Attorney for most of the time that the illegal wiretap was carried out, and Eric Gonzalez was the District Attorney for the remainder of that time. The other defendants are employees of the King's County District Attorney's Office who either had supervisory roles or were directly involved in wiretap operations. Tara Lenich is not included in the settlement.

### 6. Who are the Class Members for the Settlement?

The Class Members are: All persons whose wire, oral, or electronic communications with Stephanie Rosenfeld's personal cellular phone ([1-XXX-XXX-XXXX]) and/or with Jarrett Lemieux's cellular phone ([1-XXX-XXX-XXXX]) and were intercepted between June 1, 2015 and November 27, 2016.

### 7. How do I know if I am part of the Settlement?

You received this notice because City Defendants' records show that communication that was sent to or from a phone number associated with your name was intercepted by Tara Lenich's illegal wiretap. The phone number is: [insert number], and Defendants' records show that it was intercepted by the wiretap [X] times on the following dates and times: [insert dates]. If you were the person using this phone number on these occasions, you are a Class Member who is entitled to compensation under the Settlement. If you have more questions, visit [[www.wiretapclassaction.com](http://www.wiretapclassaction.com)] or contact the Administrator. See Question 25 for contact information.

## THE SETTLEMENT BENEFITS – WHAT YOU GET

### 8. What does the Settlement provide?

If the Settlement is finally approved, Defendants will pay \$3,200,00.00 into a Settlement Fund for the Class Members. (For how each Class Member will be paid, see Question 10.) The Settlement Fund will be used to pay the claims of each Class Member who submits a Claim Form by [135 days from Preliminary Approval]; attorneys' fees and costs; and costs of administration. If there is money left in the Settlement Fund after all those costs are paid, it will be returned to Defendants.

### 9. What costs will be deducted from the Settlement before money is given to Class Members?

If the Court approves the Settlement, three categories of costs will be deducted from the Settlement Fund before money will be available to eligible Class Members:

- All of the fees and expenses to administer and/or implement the Settlement, including the cost of the Class Administrator and the cost to provide notice to Class Members;
- A service award to the two Lead Plaintiffs to compensate them for the risks they took and their service to the Class in bringing this lawsuit. Class Counsel will ask the Court to approve payment of \$15,000 to each Lead Plaintiff; and
- A payment to Class Counsel of attorneys’ fees, not to exceed \$1,066,666, and out-of-pocket costs (see Question 19 below).

**10. How will the Settlement Fund be divided among Class Members?**

Based on the formula preliminarily approved by the Court, the money in the Settlement Fund (out of which administrative costs, a service award to the Lead Plaintiffs, and attorneys’ fees and costs will also be paid, as described in Question 9) will be divided among the Class Members who do not opt out and who submit a claim form to the Administrator on or before **[135 days from preliminary approval]**.

The Settlement Fund will be divided according to the following formula:

- First, the costs for administration, attorneys’ fees and costs, and a service award for the Lead Plaintiffs will be deducted. The amount remaining is the “Net Settlement Fund.”
- Second, the Administrator will determine how many Class Members submit timely claim forms and how many times each of those Class Members had a communication that was illegally intercepted. Based on these figures, the Administrator will calculate the Award Value for each Class Member, as follows:
  - Each Class Member will be entitled to a certain number of “Award Units” based upon the number of times his or her communications were intercepted. Each Award Unit will have an equal monetary value, which will be determined by dividing the Net Settlement Fund by the total number of Award Units claimed.
  - The maximum value of an Award Unit is \$1,000.
  - The minimum value of an Award Unit—if every eligible Class Member submitted a timely claim form—is \$756.
  - The table below shows the number of Award Units allotted based on the number of interceptions that occurred, as well as the minimum and maximum monetary values for each award.

Number of Interceptions	Award Units	Minimum Award Value	Maximum Award Value
1	6	\$4,536	\$6,000
2–10	7.5	\$5,670	\$7,500

11-100	10	\$7,560	\$10,000
101+	15	\$11,340	\$15,000

- For example, if a Class Member who submits a claim form by **[135 days from preliminary approval]** had one communication intercepted, she would receive 6 Award Units. Similarly, if a Class Member who submits a claim form by **[135 days from preliminary approval]** had 150 communications intercepted, she would receive 15 Award Units.
- Once the Administrator calculates the value of the Award Units and the Award Value for each Class Member, he or she will send checks in that amount to each Class Member.

#### 11. What will I get from the Settlement if it is approved?

Defendants' records show that your phone number was intercepted [ ] time(s). Accordingly, you are eligible to receive between [ ] and [ ]. The precise amount you will receive depends on the number of Class Members who submit a timely claim form.

**This money payment may affect your eligibility for needs-based government benefits, like Public Assistance and SSI. If you receive these benefits and want more information, visit [www.wiretapclassaction.com/FAQ](http://www.wiretapclassaction.com/FAQ).**

Neither Class Counsel nor Defendants make any representations concerning tax consequences of this Settlement or your participation in it, and you are advised to seek your own personal tax advice prior to acting in response to this Notice.

#### 12. What will I give up if the Settlement is approved?

If you do not exclude yourself from the Settlement (see Question 16), you will give up your right to file your own lawsuit against the City Defendants (or any related entities or individuals) arising out of Tara Lenich's unlawful wiretap on Stephanie Rosenfeld's and Jarret Lemieux's cellular telephones. All of the Court's orders will apply to you and legally bind you.

The claims that are released by the Settlement and the persons and entities that are released by it are defined in the Settlement Agreement. The Release is a very important part of the Settlement and if you do not exclude yourself from the Settlement, and the Settlement is finally approved by the Court, you will be bound by all of the terms of the Release. The Release is very broad and applies to all claims arising out of the facts set out in the Complaint filed by Lead Plaintiffs that have been asserted or could have been asserted against the individuals and entities that are included in the definition of "Released Parties." The term Released Parties includes not only the City Defendants, but also all of their related persons and entities (including, for example, their directors, officers, employees, members, agents, and representatives). If you do not exclude yourself, you cannot sue, continue to sue, or be part of any other lawsuit against the City Defendants (or the Released Parties) arising out of Tara Lenich's unlawful wiretaps. **If you have a pending lawsuit that involves any of the City Defendants, you should speak to your lawyer in that case immediately to see if this Settlement will affect your other case.**

#### 13. What happens if the Settlement is not approved?

If the Settlement is not approved, no one will get any money from the Settlement, and the litigation will continue.

#### 14. How can I get my payment?

You must submit a claim to the Administrator by **[135 days from Preliminary Approval]**, by either (a) mailing the form to the following address: **[address]** OR (b) filing an Electronic Claim Form online at **[[www.wiretapsclassaction.com](http://www.wiretapsclassaction.com)]**.

#### 15. When will I get my payment?

The Court will hold a hearing on **[fairness hearing date]**, in **[courtroom]**. At the hearing – which is known as the Fairness Hearing – the Court will hear arguments on whether it should approve the Settlement. If the Court approves the Settlement, any objectors may appeal that approval. It is always difficult to predict whether an appeal will be brought or, if an appeal is brought, how long it will take for the appeal to be resolved. Appeals can take time, perhaps more than a year. Approval will not be final until after any appeals are resolved. No payments will be made until the Settlement is finally approved. Please note that the date of the Fairness Hearing may change.

### EXCLUDING YOURSELF (OR “OPTING OUT”) FROM THE SETTLEMENT

#### 16. How do I get out of the Settlement?

If you do not want a payment from the Settlement, and you do not want to release your claims against the Released Parties arising out of the unlawful wiretap conducted by Tara Lenich, you must take steps to tell the Court you do not want to participate in the Settlement. This is called excluding yourself – or “opting out.” **If you have a pending lawsuit that involves any of the Defendants, you should speak to your lawyer in that case immediately to see if this Settlement will affect your other case.**

To exclude yourself from the Settlement, you must send a letter to the Administrator at **[ADDRESS]** stating that you want to be excluded from the Settlement in *Rosenfeld and Garcia v. Lenich, et al.*, No. 18-cv-5720 (NGG), and acknowledging that by excluding yourself, you will not receive any funds from the Settlement. You must include your name, address, telephone number, and signature. Your exclusion request must be mailed to the Administrator no later than **[135 days from preliminary approval]** and it must be mailed to the Administrator at the following address: **[address]**. If you ask to be excluded, you **will not get any settlement payment**, and you cannot object to the Settlement.

#### 17. What happens if I exclude myself from the Settlement?

If you exclude yourself, you will not receive any money from the Settlement. However, to the extent not precluded by the relevant statute of limitations, you may bring your own case, at your own expense, to seek damages from the City Defendants relating to Tara Lenich’s unlawful wiretap on Stephanie Rosenfeld’s and Jarret Lemieux’s cellular telephones.

Simply not returning the claim form to receive the money payment is not enough to keep the right to bring your own lawsuit. Unless you actively exclude yourself, you will give up that right.

### THE LAWYERS REPRESENTING YOU

#### 18. Do I have a lawyer in this case?

The Court has decided that the lawyers at Emery, Celli, Brinkerhoff, Abady, Ward & Maaazel LLP and Wiggin and Dana LLP are qualified to represent you and all Class Members in the Settlement. These lawyers are called "Class Counsel." You will not be charged for these lawyers. You do not need to retain your own lawyer in order to participate as a Class Member. If you want to be represented by your own lawyer, you may hire one at your own expense.

#### 19. How will the lawyers be paid?

To date, Class Counsel have not received any payment for their services or expenses in pursuing Lead Plaintiffs' and the Class Members' claims. Class Counsel have committed significant time and expense to litigating this case for the benefit of the Lead Plaintiffs and the Class Members. Class Counsel will ask the Court to be paid for their fees, not to exceed \$1,066,666, and out-of-pocket costs out of the portion of the Settlement Fund set aside to cover Settlement Costs (see Question 9).

If you decide to hire your own attorney, you will be responsible for that attorney's fees and expenses.

### OBJECTING TO THE SETTLEMENT

#### 20. How do I tell the Court that I don't like the Settlement?

If you are a Class Member (and do not exclude yourself/opt out from the Settlement), you can object to any part of the Settlement that you do not like, and you can give reasons why you think the Court should not approve the Settlement. The Court cannot modify the Settlement; it can only approve or not approve it. To object, you must send a letter that includes the following: (a) your name, address, telephone number, and email address if you have one; (b) a statement saying that you object to the Settlement in *Rosenfeld and Garcia v. Lenich, et al.*, No. 18-cv-5720 (NGG); (c) the specific reasons you object and whether those reasons apply to you, to a specific group of Class Members, or to all Class Members; (d) whether you want to speak at the fairness hearing (see Question 24); and (e) your signature. Mail the objection to the Administrator at: **[address]**. You must mail your objection to the Administrator by **[135 days from preliminary approval]**. The Administrator will take care of submitting it to the Court and serving it on Class Counsel and Defendants' counsel.

#### 21. What's the difference between objecting and excluding?

Objecting is simply telling the Court that you do not like something about the Settlement. You have to be a Class Member to object. Excluding yourself is telling the Court that you do not want to be a Class Member. If you exclude yourself from the Settlement, you cannot object to the Settlement, but you can file your own lawsuit against Defendants.

### THE COURT'S FAIRNESS HEARING

#### 22. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Fairness Hearing on **[fairness hearing date/location]**, to decide whether to approve the Settlement.

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will listen to people who have asked, in writing, to speak at

the hearing. The Court may also decide how much to pay Class Counsel. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long the Court will take to reach its decision.

PLEASE NOTE: The date of the Fairness Hearing may change. If you (or counsel you have hired to speak on your behalf) decide to attend the Fairness Hearing, you should double-check the date with the Court.

### 23. Do I have to come to the hearing?

No. Class Counsel will answer questions the Court may have. If you send an objection, you do not have to come to Court to talk about it, but you may if you want to. As long as you mailed your written objection to the Administrator on time, the Court will consider it, whether you attend the hearing or not. You may also pay your own lawyer to attend, but it is not necessary.

### 24. May I speak at the hearing?

Yes. To speak at the Fairness Hearing, you must send a letter to the Administrator **[address]** saying that you wish to speak at the Fairness Hearing in *Rosenfeld and Garcia v. Lenich, et al.*, No. 18-cv-5720 (NGG). Be sure to include your name, address, telephone number, your signature, and what you want to speak about. Your letter stating your desire to speak at the hearing must be mailed to the Administrator no later than **[135 days from preliminary approval]**.

If you want, you can (at your own expense) have an attorney speak for you at the hearing. If you have hired an attorney to speak for you at the hearing, your attorney will have to notify the Court and counsel of record that he or she is entering an appearance on your behalf. Your counsel's filing must be received by the Court and by counsel no later than **[30 days prior to the Fairness Hearing]**.

## GETTING MORE INFORMATION

### 25. Are there more details about the Settlement and the lawsuit?

This Notice summarizes the proposed Settlement. More details are in the Settlement Agreement, as well as on [\[www.wiretapclassaction.com\]](http://www.wiretapclassaction.com). You can get a copy of the Settlement Agreement and more information about the case by going to [\[www.wiretapsclassaction.com\]](http://www.wiretapsclassaction.com) or contacting the Administrator at **[number]**. If you have any questions about this Notice or the Settlement, you should contact the Administrator.

## MY CALLS AND TEXT MESSAGES

### 25. What happened to the calls and text messages that were intercepted?

The telephone calls and text messages that were intercepted as part of this illegal wiretap are now subject to a confidentiality agreement. The calls and text messages cannot be disclosed or used in any way absent a grand jury subpoena or court order.

**Questions? Call [number] or go to [\[www.wiretapclassaction.com\]](http://www.wiretapclassaction.com)**



# WIRETAP CLASS ACTION CLAIM FORM

*Rosenfeld and Garcia v. Lenich, et al.,  
No. 18-cv-5720 (NGG).*

**Must Be Received BY  
[DATE]**

## Wiretap Class Action Settlement

If the pre-printed information to the left is not correct, or if there is no pre-printed information, please check the box and complete the information below

<<NAME 1>>  
<<NAME 2>>  
<<NAME 3>>  
<<ADDRESS 1>>  
<<ADDRESS 2>>  
<<CITY>>, <<ST>> <<ZIP>>  
<<PHONE NUMBER >>

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_ \_\_\_ Zip Code: \_\_\_\_\_  
Phone Number: \_\_\_\_\_

**You will receive NO MONEY unless you submit a claim.**

IT IS IMPORTANT THAT YOU READ THE ATTACHED INSTRUCTIONS BEFORE YOU BEGIN FILLING OUT THIS CLAIM FORM ON THE LAST PAGE.

INSTRUCTIONS TO SUBMIT A CLAIM BY MAIL: Complete, sign, and mail this Claim Form to Wiretap Class Action Settlement, [ADMINISTRATOR NAME AND ADDRESS]. **THE ENVELOPE MUST BE SENT BY [DATE].**

INSTRUCTIONS TO SUBMIT A CLAIM ONLINE: Complete an Electronic Claim Form at [www.wiretapclassaction.com]. **YOU MUST FILE BY [DATE].**

Login: [\_\_\_\_\_]

Password: [\_\_\_\_\_]

Please read the Notice before filling out this Claim Form. You should NOT pay anyone to help you complete this form.

If you have questions, contact the Administrator at [1-XXX-XXX-XXXX] or go to [www.wiretapclassaction.com].

**The information given here is PRIVATE and CONFIDENTIAL and will only be used to verify your claim.**

### **CLASS MEMBER INFORMATION:**

\*Note: You are not required to provide an SSN or I-TIN to receive a settlement payment. If you do not provide an SSN or I-TIN, up to 28% of your payment may be withheld and paid to the federal taxing authorities. You can ask for a refund when you file your tax return.

1. SSN or I-TIN (if any\*):

□□□□□ □□ □□□□□□

2. Email Address of Class Member

\_\_\_\_\_

3. Date of Birth: \_\_\_\_/\_\_\_\_/\_\_\_\_\_

4. I made/received telephone call(s) or sent/received text message(s) from the following number(s) at some point between June 1, 2015 and November 27, 2016 to either Stephanie Rosenfeld or Jarrett Lemieux: \_\_\_\_\_

**Verification and Release**

- By signing below, I agree that the U.S. District Court for the Eastern District of New York has the authority to rule on my claim for payment as part of the Settlement Class, and that the Court shall maintain jurisdiction of this matter for the purposes of enforcing the Settlement and Release as described below. I also understand that the District Court may allow the City of New York and Class Counsel to access additional personal information about me.
- In consideration for the payment of this sum, I release defendants City of New York, Lu-Shawn Thompson as Administrator for the Estate of Kenneth P. Thompson, Eric Gonzalez, Mark Feldman, William Schaeffer, Brian Donohue, William Power, Michael Dowling, Joseph Piraino, and Robert Kenavan, and any of their parents, subsidiaries, affiliates, predecessors, successors and/or assigns and in the case of all such entities, their respective past and present representatives, officers, directors, attorneys, agents, employees, privies and insurers, and any present or former employees and agents of the City of New York or any entity represented by the Office of the Corporation Counsel, from any and all liability, claims or rights of action alleging an unlawful interception caused by defendant Tara Lenich’s unlawful wiretapping scheme on Stephanie Rosenfeld and Jarrett Lemieux’s cellular telephones that were or could have been asserted by the Class Representatives and/or any Class Member against the City Defendants arising out of the unlawful wiretaps (any claims or rights of action against Tara Lenich are not included in this release).
- I declare under penalty of perjury under the laws of the United States that the information on this form is true and correct to the best of my knowledge, belief, and recollection.
- I made telephone calls or sent text messages from the following number(s) at some point between June 2015 through November 2016:

\_\_\_\_\_  
Signature:

Date:

Questions? Call the Administrator at [1-XXX-XXX-XXXX] or go to [www.wiretapclassaction.com].

**Una versión en español está disponible.**

CLAIM FORM INSTRUCTIONS

*Rosenfeld and Garcia v. Lenich, et al., No. 18-cv-5720 (NGG)*

Read Carefully Before You Complete the Attached Claim Form.

1. To be eligible to file a claim in this case, you must be a member of the Settlement Class, which includes all individuals whose communications with Stephanie Rosenfeld and/or Jarrett Lemieux were intercepted between June 1, 2015 and November 27, 2016 by illegal wiretaps initiated by former Assistant District Attorney Tara Lenich.
2. To be eligible to receive a settlement payment as described in the Notice of Class Action Settlement accompanying this Claim Form ("Eligible Claimant"), your completed Claim Form must be mailed to the Claims Administrator and postmarked by the claim filing deadline set by the Court, and set forth in the Notice and Claim Form. For your Claim form to be considered complete, all questions must be answered and all applicable blanks filled in a manner legible to the Claims Administrator.
3. Each person who wishes to make a claim must submit his or her own Claim Form.
4. You must sign the Claim Form. By doing so, you are declaring under penalty of perjury that the information on the form is true and correct to the best of your knowledge, belief and recollection.
5. If you are found to be eligible for payment as part of the Settlement Class, and you accept payment from the City Defendants, you may not appeal the payment amount.
6. If you want further information about the settlement or have questions about these instructions or about how to complete the Claim Form, please e-mail the Claims Administrator at [\_\_\_\_\_], or call the Claims Administrator, at [1-XXX-XXX-XXXX]. Do not call the Court, the Clerk of Court, the NYPD, the Kings County District Attorney, the New York City Law Department, and/or any other City agency.
7. Filing this Claim Form does not automatically guarantee that you will receive payment as part of the Settlement of the Rosenfeld & Garcia Action. Your Claim Form will be subject to review and verification by the Claims Administrator.
8. It is your responsibility to keep the Claims Administrator advised of any change in your address. To inform the Claims Administrator of a change of address, please e-mail the Claims Administrator at [\_\_\_\_\_], or call the Claims Administrator, at [1-XXX-XXX-XXXX]. If you do not keep the Claims Administrator advised of your current address, any monetary award to which you may be found to be entitled to could be forfeited. Any change of address should be reported along with your complete name and signature, and your former address.
9. You do not need to have an attorney to help you submit a Claim Form. However, you may contact the Claims Administrator at [\_\_\_\_\_],[email] or [1-XXX-XXX-XXXX] for any assistance or with any questions. In addition, if you wish to consult with your own attorney other than Class Counsel, you may do so at your own expense.

# Exhibit B

## Telephone Script

*Rosenfeld, et al. v. Lenich, et al.*

- Hello, this is [operator name], a live operator calling for [class member]. I am calling to inform you of a class action settlement that has been preliminarily approved by a federal judge. You are likely to receive [\$6,000/\$7,500/\$10,000/\$15,000] from this settlement because it appears your conversations or texts were illegally wiretapped when you spoke with Stephanie Rosenfeld or Jarrett Lemieux. This is not a sales or marketing call and it is not a solicitation from a lawyer. If you have concerns about the legitimacy of this call, you can call me back right now at [Phone Number].
- Our records indicate that you are entitled to recover as part of this settlement because you communicated with either Stephanie Rosenfeld or Jarrett Lemieux between June 2015 and November 2016 and your communication was unlawfully intercepted. You can read more about the case and the settlement at [website]. You can also call the Settlement Administrator at [phone number] to ask any questions.
- We need to send you written notice of the settlement as well. Is your address [state address]? Could you please confirm for me that this is your correct address? OR Could you please tell me your current address? This information will only be used to send you the written settlement notice and will not be shared with anyone else. I do not need any other information from you at this time.
- In order to receive a payment, you will have to submit a Claim Form to the Settlement administrator and the form must be submitted by [135 days from preliminary approval]. When you receive written notice of the settlement, it will include a pre-stamped Claim Form that you can return. Alternatively, you can visit [website] and submit your claim there.
- If you do not wish to submit a Claim Form, you can do one of three other things:
  - You can exclude yourself, or opt out of the class action.
  - You can object to all or any parts of the Settlement Agreement.
  - You can do nothing. However, if you do nothing you will not receive any payment and you may be barred from bringing any other case arising from the unlawful interception of your communications with Stephanie Rosenfeld or Jarrett Lemieux.
- The website and the written notice will explain all of these options in detail.
- **Response to questions:** Although I am a real person, I am reading from a script that has been approved by a federal judge. Unfortunately, I cannot answer any questions on this call. If you have questions, please visit [website] or call the Settlement administrator at [phone number].

# Exhibit C

**Text Message Script**

*Rosenfeld, et al. v. Lenich, et al.*

Our records indicate that you may be entitled to recover up to [\$6,000/\$7,500/\$10,000/\$15,000] as part of a class action settlement with the City of New York because you communicated with either Stephanie Rosenfeld or Jarrett Lemieux between June 2015 and November 2016 and your communication was unlawfully intercepted. You will be receiving a formal notice in the mail. You can read more about the case and the settlement at [website]. You can also call the settlement administrator at [phone number] to ask any questions.