

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CAROL MILLER, individually and on behalf of all others similarly situated,

Plaintiff,

v.

BATH SAVER, INC. and **BATH FITTER MANUFACTURING INC.**,

Defendants.

Case No. 1:21-cv-01072-JPW

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT

TO: All Persons in the United States (1) who were called by Bath Saver or affiliates (Kitchen Saver and/or Homespire Windows/Doors and their affiliates) two or more times in a twelve- month period on a telephone number that had been registered with the National Do Not Call Registry for more than thirty days and (2) for whom (a) Bath Saver does not have a record of having written consent to call and/or (b) Bath Saver has a record of the Person requesting to not be called.

**IF YOU ARE A MEMBER OF THIS GROUP, YOU SHOULD READ THIS NOTICE CAREFULLY.
IT MAY AFFECT YOUR LEGAL RIGHTS AND OBLIGATIONS.**

***A FEDERAL COURT AUTHORIZED THIS NOTICE.
THIS IS NOT A SOLICITATION FROM A LAWYER.***

- A class action settlement agreement and release (the “Settlement Agreement”) has been proposed in the class action lawsuit referenced above pending in the United States District Court for the Middle District of Pennsylvania (the “Action”). You may be a class member in the proposed settlement and may be entitled to participate in the proposed settlement.
- The United States District Court for the Middle District of Pennsylvania (the “Court”) has ordered the issuance of this Notice in the Action. Defendants deny they did anything wrong and have defended themselves throughout the Action. The Court has not decided who is right. Both sides have agreed to settle the dispute to avoid burdensome and costly litigation.
- If the Court gives final approval to the Settlement Agreement, Defendants will create a fund of \$1,950,000.00. You may be eligible to receive a pro rata share of the Settlement after the deduction of Settlement Class Counsel’s Fees, Costs, and Expenses Award and a Service Payment to the Plaintiff (see Section 11 below) and Administration Costs from the Settlement Fund (see Section 12 below), if you submit a timely and valid Claim Form. The value of a Settlement Class Member’s individual award will depend upon the number of Authorized Claimants.

A Summary of Your Rights and Options:

If You:	You Will:
Do Not Exclude Yourself From The Settlement:	<ul style="list-style-type: none"> • Be a member of the Settlement Class • Be eligible to receive an award under the Settlement → • Be able to object to the terms of the Settlement • Be bound by judgments and orders in the Action • Be prohibited from filing suit asserting Released Claims
<i>or</i>	
Exclude Yourself From The Settlement:	<ul style="list-style-type: none"> • Not be a member of the Settlement Class • Not be eligible to receive an award under the Settlement → • Not be able to object to the terms of the Settlement • Not be bound by judgments and orders in the Action • Not be prohibited from filing suit asserting Released Claims

- **This Notice Explains These Rights and Options and the Deadlines and Procedures for Exercising Them.**
- The Court has preliminarily approved the Settlement Agreement and must decide whether to give final approval to the Settlement Agreement. The relief provided to Settlement Class Members will be provided only if the Court gives final approval to the Settlement Agreement and, if there are any appeals, after the appeals are resolved in favor of the Settlement. *Please be patient.*

WHAT THIS NOTICE CONTAINS

BACKGROUND INFORMATION	3
1. Why did I get this Notice?	
2. What is this lawsuit about?	
3. Why is this a class action?	
4. Why is there a settlement?	
5. How do I know if I am part of the Settlement?	
6. I'm still not sure if I am included.	
THE PROPOSED SETTLEMENT.....	4
7. What relief does the Settlement provide to the Settlement Class Members?	
HOW TO REQUEST AN AWARD UNDER THE SETTLEMENT – SUBMITTING A CLAIM FORM	4
8. How can I get an award under the Settlement Agreement?	
9. When will I get an award under the Settlement Agreement?	
THE LAWYERS IN THIS CASE AND THE PLAINTIFF	4
10. Do I have a lawyer in this case?	
11. How will the lawyers and the Representative Plaintiff be paid?	
12. How will the Settlement Administrator be paid?	
DISMISSAL OF ACTIONS AND RELEASE OF ALL CLAIMS	5
13. What am I giving up to obtain relief under the Settlement Agreement?	
HOW TO EXCLUDE YOURSELF FROM THE SETTLEMENT	5
14. How do I exclude myself from the Settlement Agreement?	
HOW TO OBJECT TO THE SETTLEMENT	5
15. How do I tell the Court that I disagree with the Settlement Agreement?	
16. What is the difference between excluding myself and objecting to the Settlement Agreement?	
FINAL APPROVAL HEARING	6
17. What is the Final Approval Hearing?	
18. When and where is the Final Approval Hearing?	
19. May I speak at the Final Approval Hearing?	
ADDITIONAL INFORMATION	7
20. How do I get more information?	
21. What if my address or other information has changed or changes after I submit a Claim Form?	

BACKGROUND INFORMATION

1. Why did I get this Notice?

You received this Notice because a Settlement Agreement has been reached in the Action and Defendants records indicate you may be a class member. If you are a member of the Settlement Class, you may be eligible for the relief detailed below.

This Notice explains the nature of the Action, the general terms of the proposed Settlement Agreement, and your legal rights and obligations. To obtain more information about the Settlement, including information about how you can see a copy of the Settlement Agreement (which defines certain capitalized terms used in this Notice), see Section 20 below.

2. What is this lawsuit about?

An individual (the “Plaintiff”) filed a lawsuit against Bath Saver, Inc. and Bath Fitter Manufacturing Inc. (“Defendants”) on behalf of herself and all others similarly situated. The lawsuit alleges that Defendants or their affiliates violated the Telephone Consumer Protection Act, 47 U.S.C. § 227 (the “TCPA”) by placing unsolicited telephone calls (“Calls”) to Plaintiff and the Settlement Class Members.

Defendants deny each and every allegation of unlawful conduct, any wrongdoing, and any liability whatsoever. No court or other entity has made any judgment or other determination of any liability. Defendants further deny that any Settlement Class Member is entitled to any relief and, other than for settlement purposes, that the Action is appropriate for certification as a class action.

The issuance of this Notice is not an expression of the Court’s opinion on the merits or the lack of merits of the Plaintiff’s claims in the Action.

For information about how to learn about what has happened in the Action to date, please see Section 20 below.

3. Why is this a class action?

In a class action lawsuit, one or more people sue on behalf of other people who allegedly have similar claims. For purposes of this Settlement, one court will resolve the issues for all Settlement Class Members.

4. Why is there a settlement?

Plaintiff has made claims against Defendants. Defendants deny that they have done anything wrong and admit no liability. The Court has not decided that the Plaintiff or Defendants should win the Action. Instead, both sides agreed to a Settlement Agreement. That way, they avoid the cost of a trial, and the Settlement Class Members will receive relief now rather than years from now, if at all.

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

The Court has decided that everyone who fits this description is a Settlement Class Member for purposes of the Settlement Agreement:

All Persons in the United States (1) who were called by Bath Saver or affiliates (Kitchen Saver and/or Homespire Windows/Doors and their affiliates) two or more times in a twelve-month period on a telephone number that had been registered with the National Do Not Call Registry for more than thirty days and (2) for whom (a) there is no record of having written consent to call and/or (b) there is a record of the Person requesting to not be called.

6. I'm still not sure if I am included.

If you are still not sure whether you are included in the Settlement Class, you can write or call the Settlement Administrator for free help. The Settlement Administrator's contact information is below.

Bath Saver Settlement
c/o Settlement Administrator
P.O. Box 4710
Portland, OR 97208-4710
1-800-380-7975
info@BathSaverSettlement.com

THE PROPOSED SETTLEMENT

7. What relief does the Settlement provide to the Settlement Class Members?

If the Court gives final approval to the Settlement, Defendants will create a Settlement Fund of \$1,950,000.00 which will be used to pay the Claims of Settlement Class Members, Settlement Class Counsel's Fees, Costs, and Expenses Award and a Service Payment to the Plaintiff (see Section 11 below) and compensation for the Settlement Administrator for Administration Costs (see Section 12 below).

If you are a Settlement Class Member, you are eligible to receive a pro rata share of the Settlement Fund, after the deduction of Settlement Class Counsel's Fees, Costs, and Expenses Award, Plaintiff's Service Payment, and Administration Costs, by submitting a timely and valid Claim Form. The value of a Settlement Class Member's individual award will depend upon the number of Claimants.

Additionally, Defendants have agreed to cease making telemarketing calls to Settlement Class Members unless they subsequently inquire or consent to be contacted regarding Defendants' or their affiliates products or services.

HOW TO REQUEST AN AWARD UNDER THE SETTLEMENT – SUBMITTING A CLAIM FORM

8. How can I get an award under the Settlement Agreement?

To qualify for an award under the Settlement Agreement, you must submit a timely and valid Claim Form. A Claim Form is available at www.BathSaverSettlement.com. The Claim Form may be submitted online, by email, or by postal mail. Read the instructions carefully, fill out the form, and submit or postmark it by January 3, 2023.

9. When will I get an award under the Settlement Agreement?

As described in Sections 17 and 18, the Court will hold a hearing on February 2, 2023 at 9:30 a.m. eastern time to decide whether to approve the Settlement Agreement. If the Court approves the Settlement, after that, there may be appeals. It's always uncertain whether these appeals will result in a favorable decision for the Settlement Class, and concluding them can take time, perhaps more than a year. You can check on the progress of the case on the website dedicated to the Settlement at www.BathSaverSettlement.com. *Please be patient.*

THE LAWYERS IN THIS CASE AND THE PLAINTIFF

10. Do I have a lawyer in this case?

The Court has ordered that the law firms of Kaufman P.A. and Coleman PLLC ("Settlement Class Counsel") will represent the interests of all Settlement Class Members. You will not be separately charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

11. How will the lawyers and the Plaintiff be paid?

Settlement Class Counsel will petition the Court to receive a Fee Award of approximately \$650,000.00, and documented and reasonable expenses and out-of-pocket costs of up to \$50,000.00. The Court will make the final decision as to the amount to be paid to the attorneys for their fees and costs. Any amount to be paid to the attorneys for their fees and costs will be paid from the Settlement Fund. You will not be required to separately pay any attorneys' fees or costs.

The Plaintiff will also petition the Court to receive a Service Payment for her work in pursuing the Action on behalf of the Settlement Class. The Court will make the final decision as to the amount to be paid to Plaintiff. Any amount to be paid to Plaintiff will be paid from the Settlement Fund.

12. How will the Settlement Administrator be paid?

Settlement Class Counsel will petition the Court to pay the Administration Costs of the Settlement Administrator for costs and fees incurred in providing notice to the Settlement Class and administering the Settlement. The Court will make the final decision as to the amount to be paid to the Settlement Administrator.

DISMISSAL OF ACTION AND RELEASE OF ALL CLAIMS

13. What am I giving up to obtain relief under the Settlement Agreement?

If the Court approves the proposed Settlement Agreement and you do not submit an exclusion request, you will be releasing your claims against Defendants and their affiliates unless you have excluded yourself from the Settlement. This generally means that you will not be able to file or pursue a lawsuit against the Released Parties or be part of any other lawsuit against the Released Parties asserting claims that were or could have been asserted in the Action. The Settlement Agreement, available at www.BathSaverSettlement.com, contains the full terms of the release.

14. How do I exclude myself from the Settlement Agreement?

You may exclude yourself from the Settlement Class and the Settlement Agreement. You can submit a request for exclusion to the Settlement Administrator by first class United States mail. If you want to be excluded, you must write the Settlement Administrator stating: (a) your name; (b) address; (c) the telephone number that allegedly received a call or calls from Defendants or their affiliates during the Settlement Class Period; (d) that you wish to be excluded from the Litigation and the Agreement; and (e) be signed personally by you. The request for exclusion must be sent to the Settlement Administrator at:

Bath Saver Settlement
c/o Settlement Administrator
P.O. Box 4710
Portland, OR 97208-4710

Your request for exclusion must be postmarked no later than January 3, 2023. You are responsible for your postage.

If you validly and timely request exclusion from the Settlement Class, you will be excluded from the Settlement Class, you will not be bound by the Settlement Agreement or the Judgment entered in the Action, you will not be eligible to make a Claim for any benefit under the terms of the Settlement Agreement, you will not be entitled to submit an objection to the Settlement Agreement, and you will not be precluded from prosecuting any timely, individual claim against the Released Parties based on the conduct complained of in the Action.

15. How do I tell the Court that I disagree with the Settlement Agreement?

At the date, time, and location stated in Section 18 below, the Court will hold a Final Approval Hearing to determine if the Settlement is fair, reasonable, and adequate, and to also consider the payments to Settlement Class Counsel and the Plaintiff (see Section 11).

If you wish to object to the fairness, reasonableness, or adequacy of the Settlement Agreement or the proposed Settlement, or the requested payments to Settlement Class Counsel and the Plaintiff, you must write to the Court and must: (a) clearly identify the case name and number; (b) include your full name; (c) include your address and

telephone number; (d) include the name, address, and telephone number of any attorney you retained with respect to the objection (if you are represented by personal counsel); and (e) provide the factual basis and legal grounds for the objection, including any documents sufficient to establish the basis for your standing as a Settlement Class Member, including the phone number(s) at which you received calls covered by this Settlement. Objections may be submitted to the Court. If an objection is submitted by postal mail, you must pay for postage.

The mailing address of the Court is:

Clerk of the Court
United States District Court for the Middle District of Pennsylvania
Harrisburg Division
228 Walnut Street
P.O. Box 983
Harrisburg, PA 17108

The objection must be postmarked no later than January 3, 2023.

You may, but need not, submit your objection through counsel of your choice. If you do make your objection through an attorney, you will be responsible for your personal attorney’s fees and costs.

IF YOU DO NOT TIMELY MAKE AN OBJECTION, YOU WILL BE DEEMED TO HAVE WAIVED ALL OBJECTIONS AND WILL NOT BE ENTITLED TO SPEAK AT THE FINAL APPROVAL HEARING.

If you submit a written objection, you have the option to appear and request to be heard at the Final Approval Hearing, either in person or through personal counsel. You are not required to appear. However, if you, or your attorney, intend to make an appearance at the Final Approval Hearing, you must include on your timely and valid objection a statement substantially similar to “Notice of Intention to Appear.” Only those who submit timely objections including Notices of Intention to Appear may speak at the Final Approval Hearing. If you make an objection through an attorney, you will be responsible for your attorney’s fees and costs.

16. What is the difference between excluding myself and objecting to the Settlement Agreement?

Objecting is simply telling the Court that you disagree with something about the Settlement Agreement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you don’t want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the Settlement no longer affects you.

FINAL APPROVAL HEARING

17. What is the Final Approval Hearing?

The Court has preliminarily approved the Settlement and will hold a hearing to decide whether to give final approval to the Settlement. The purpose of the Final Approval Hearing will be for the Court to determine whether the Settlement should be approved as fair, reasonable, adequate, and in the best interests of the Settlement Class; and to consider the Fees, Costs, and Expenses Award to Settlement Class Counsel in the Action.

18. When and where is the Final Approval Hearing?

On February 2, 2023 at 9:30 a.m. eastern time a hearing will be held on the fairness of the proposed settlement. At the Final Approval Hearing, the Court will be available to hear any objections and arguments concerning the proposed settlement’s fairness. The hearing will take place before the Honorable Jennifer P. Wilson, United States District Court for the Middle District of Pennsylvania, Harrisburg Division, 228 Walnut Street, Harrisburg, PA 17108 on February 2, 2023 at 9:30 a.m. eastern time. The Final Approval Hearing may be changed to a different date or time or location. Please check www.BathSaverSettlement.com for any updates about the Settlement generally or the Final Approval Hearing specifically. If the date or time of the Final Approval Hearing changes, an update to the Settlement Website will be the only way you will be informed of the change.

19. May I speak at the Final Approval Hearing?

At that Final Approval Hearing, the Court will be available to hear any objections and arguments concerning the fairness of the Settlement. You may attend, but you do not have to. As described above in Section 15, you may speak at the Final Approval Hearing only if (a) you have timely submitted an objection; and (b) you have timely and validly provided a Notice of Intent to Appear. If you have requested exclusion from the Settlement, you may not speak at the Final Approval Hearing.

ADDITIONAL INFORMATION

20. How do I get more information?

To see a copy of the Settlement Agreement, the Court's Preliminary Approval Order, the applications for a Fees, Costs, and Expenses Award and for a Service Payment, and the operative Complaint filed in the Action, please visit the Settlement Website located at: www.BathSaverSettlement.com. Alternatively, you may contact the Settlement Administrator at info@BathSaverSettlement.com or the U.S. postal (mailing) address: Bath Saver Settlement Administrator PO Box 4710, Portland OR 97208-4710. You may also obtain information by calling 1-800-380-7975.

This description of the Action is general and does not cover all of the issues and proceedings that have occurred. In order to see the complete file, you should visit www.pacer.gov or the Clerk's Office of the United States District Court for the Middle District of Pennsylvania, Harrisburg Division, 228 Walnut Street, Harrisburg, PA 17108. The Clerk will tell you how to obtain the file for inspection and copying at your own expense.

21. What if my address or other information has changed or changes after I submit a Claim Form?

It is your responsibility to inform the Settlement Administrator of your updated information. You may do so at the address below:

Bath Saver Settlement
c/o Settlement Administrator
P.O. Box 4710
Portland, OR 97208-4710
1-800-380-7975
info@BathSaverSettlement.com

DO NOT ADDRESS ANY QUESTIONS ABOUT THE SETTLEMENT OR THE LITIGATION TO THE CLERK OF THE COURT OR THE JUDGE.