

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

WADDELL WILLIAMS, on behalf of himself
and others similarly situated,

Plaintiff,

vs.

Case No. 8:17-CV-01971-T-27AAS

BLUESTEM BRANDS, INC.,

Defendant.

NOTICE OF CLASS ACTION SETTLEMENT

**This is a notice of a settlement of a class action lawsuit.
This is not a notice of a lawsuit against you.**

If you received one or more telephone calls to your cellular telephone from Bluestem Brands, Inc. (“Bluestem”) from November 2, 2015 through July 8, 2018, that were wrong number calls—in that you are not a customer of one of Bluestem’s businesses (Fingerhut, Gettington, or PayCheck Direct)—you may be entitled to compensation as a result of the settlement in the class action lawsuit captioned:

Waddell Williams v. Bluestem Brands, Inc., No. 8:17-cv-01971-T-27AAS (M.D. Fla.)

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

**Please read this notice carefully.
It explains your rights and options to participate in a class action settlement.**

What are your legal rights and options?

SUBMIT A TIMELY CLAIM FORM:	If you submit a valid timely claim form you will receive a proportionate share of the settlement fund after expenses are deducted, and you will release claims you may have against Bluestem related to this case.
DO NOTHING:	If you do nothing, you will <u>not</u> receive a share of the settlement fund, but you will release claims you may have against Bluestem related to this case.
EXCLUDE YOURSELF:	If you exclude yourself from the settlement, you will <u>not</u> receive a share of the settlement fund, and you will <u>not</u> release any claims you have against Bluestem.
OBJECT:	If you do not exclude yourself from the settlement, you may object to the settlement.

What is the purpose of this notice?

This is a notice of a proposed settlement in a class action lawsuit. The settlement would resolve the lawsuit Waddell Williams filed against Bluestem Brands, Inc. Please read this notice carefully. It explains the lawsuit, the settlement, and your legal rights, including the process for receiving a settlement check, excluding yourself from the settlement, or objecting to the settlement.

What is this lawsuit about?

Mr. Williams filed this lawsuit against Bluestem, alleging that Bluestem violated the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227, when calling consumers on their cellular telephones, via an automatic telephone dialing system, at wrong numbers—in that the subscriber to the telephone number called was different from the party that Bluestem was trying to reach. Bluestem denies the allegations, denies that it used an automatic telephone dialing system to place calls to class members, and denies that it violated the TCPA. The parties have agreed to a settlement.

Why is this a class action?

In a class action, one or more people called “class representatives” file a lawsuit on behalf of people who have similar claims. All of these people together are a “class” or “class members.” The Court accordingly resolves claims for all class members, except for those who exclude themselves from the class.

Why is there a settlement?

Mr. Williams, on the one hand, and Bluestem, on the other, have agreed to settle the lawsuit to avoid the time, risk, and expense associated with it, and to achieve a final resolution of the disputed claims. The proposed settlement was reached during mediation held before retired Judge Diane M. Welsh. Under the settlement, class members will obtain a payment in settlement of the claims that Mr. Williams raised in the lawsuit. Mr. Williams and his attorneys think the settlement is fair and reasonable.

How do you know if your claims are included in the settlement?

This settlement resolves claims on behalf of the following class:

All persons and entities throughout the United States (1) to whom Bluestem Brands, Inc. placed a call in connection with a Fingerhut, Gettington, or PayCheck Direct account, (2) directed to a number assigned to a cellular telephone service, (3) in connection with its efforts to collect an account balance, (4) via LiveVox, Inc.'s Quick Connect platform, (5) where Bluestem's records contain a notification of wrong phone, (6) from November 2, 2015 through July 8, 2018.

Bluestem has identified 280,570 unique cellular telephone numbers that fall within the class definition.

What does the settlement provide?

Bluestem will establish a settlement fund in the amount of \$1 million and will pay separately the costs of class action notice and administration, which will not exceed \$269,500. Out of the total settlement fund of up to \$1,269,500, Bluestem will pay:

- a. Settlement compensation to the class members;
- b. Notice and administration costs not to exceed \$269,500;
- c. An award of attorneys' fees, subject to the Court's approval;
- d. Costs and expenses incurred litigating this matter, subject to the Court's approval; and
- e. An incentive award to Mr. Williams, subject to the Court's approval.

Each class member who submits a timely and valid claim form will be entitled, subject to the provisions of the settlement agreement, to his or her equal share of the \$1 million settlement fund as it exists after deducting:

- a. Attorneys' fees in an amount not to exceed 30 percent of the total settlement fund, subject to the Court's approval;
- b. Litigation costs and expenses not to exceed \$18,500, subject to the Court's approval; and
- c. An incentive award for Mr. Williams, not to exceed \$5,000, subject to the Court's approval.

How can you get a payment?

You must mail a valid claim form to the Williams v. Bluestem Brands Settlement Administrator, 1650 Arch Street, Suite 2210, Philadelphia, PA 19103 postmarked by **July 16, 2019**. Or you must submit a valid claim online through the settlement website, www.BluestemSettlement.com no later than **July 16, 2019**.

When will you be paid?

If the Court grants final approval of the settlement, settlement checks will be mailed to class members who timely mailed or submitted valid claim forms no later than 45 days after the judgment in the lawsuit becomes final. If there is an appeal of the settlement, payment may be delayed.

What rights are you giving up in this settlement?

Unless you exclude yourself from the settlement, you will be considered a member of the class, which means you give up your right to sue or continue a lawsuit against Bluestem over the released claims. Giving up your legal claims is called a release. Unless you formally exclude yourself from the settlement, you will release your claims against Bluestem.

For more information on the release, released parties, and released claims, please review the class action settlement agreement available on the settlement website, www.BluestemSettlement.com or from the Clerk of the United States District Court for the Middle District of Florida.

How can you exclude yourself from the settlement?

You may exclude yourself from the settlement, in which case you will not receive a payment. If you wish to exclude yourself from the settlement, you must mail a written request for exclusion to the claims administrator at the following address, postmarked by **July 16, 2019**:

Williams v. Bluestem Settlement Administrator
ATTN: EXCLUSION REQUEST
P.O. Box 58220
1500 John F. Kennedy Blvd., Suite C31
Philadelphia, PA 19102

You must include in your request for exclusion your:

- a. Full name;
- b. Address;
- c. Telephone number called by Bluestem demonstrating that you are a member of the Class; and
- d. A clear and unambiguous statement that you wish to be excluded from the settlement, such as "I request to be excluded from the settlement in the Williams v. Bluestem Brands action."

You must sign the request personally. If any person signs on your behalf, that person must attach a copy of the power of attorney authorizing that signature.

When and where will the Court decide whether to approve the settlement?

The Court will hold a final fairness hearing on **August 27, 2019**, at **1:00 p.m. ET**. The hearing will take place in the United States District Court for the Middle District of Florida, Sam M. Gibbons United States Courthouse, 801 North Florida Avenue, Courtroom 13B, Tampa, FL 33602. At the final fairness hearing, the Court will consider whether the settlement is fair, reasonable, and adequate and, if so, whether final approval of the settlement should be granted. The Court will hear objections to the settlement, if any. The Court may make a decision at that time, postpone a decision, or continue the hearing.

Do you have to attend the hearing?

No. You are not required to attend the hearing. But you are welcome to attend the hearing at your own expense. You cannot speak at the hearing if you have excluded yourself from the class settlement. Once you have excluded yourself, the class settlement does not affect your legal rights.

What if you want to object to the settlement?

If you do not exclude yourself from the settlement, you can object to the settlement, or any part of it, if you do not believe it is fair, reasonable, and adequate. If you wish to object, you must file a written objection with the Court no later than **July 16, 2019** and mail a copy of your objection to Class Counsel and Bluestem's attorneys, at the following addresses postmarked no later than **July 16, 2019**:

Class Counsel:

Michael L. Greenwald
Greenwald Davidson Radbil PLLC
7601 N. Federal Highway,
Suite A-230
Boca Raton, FL 33487

Defendant's Counsel:

Erin Hoffman
Faegre Baker Daniels LLP
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402

Court:

U.S. District Court for the
Middle District of Florida
Sam M. Gibbons Courthouse
801 North Florida Avenue
Tampa, FL 33602

To be effective, an objection to the proposed settlement must:

- A. Contain a heading which includes the name of the case and case number;
- B. Provide the name, address, telephone number and signature of the class member filing the objection;
- C. Attach documents establishing, or provide information sufficient to allow the Parties to confirm, that the objector is a Settlement Class Member, including providing the cellular telephone number called by Bluestem Brands;
- D. Be sent to Class Counsel and counsel for Defendant at the above addresses by first-class mail, postmarked no later than **July 16, 2019**;
- E. Be filed with the Clerk of the Court no later than **July 16, 2019**;
- F. Contain the name, address, bar number and telephone number of the objecting class member's counsel, if represented by an attorney. If the class member is represented by an attorney, the attorney must comply with all applicable laws and Local rules for filing pleadings and documents in the U.S. District Court for the Middle District of Florida;
- G. Include a statement of the class member's specific objections; and
- H. State the grounds for objection, as well as identify any documents which the objector desires to be considered.

By when must you enter an appearance?

Any class member who objects to the settlement and wishes to enter an appearance must do so by **July 16, 2019**. To enter an appearance, you must file with the Clerk of the Court a written notice of your appearance and you must serve a copy of that notice, by U.S. mail or hand-delivery, upon Class Counsel and Bluestem's attorneys, at the addresses set forth below.

What if you do nothing?

If you do nothing and the Court approves the settlement agreement, you will not receive a share of the settlement fund, but you will release any claim you have against Bluestem related to the allegations in this case. Unless you exclude yourself from the settlement, you will not be able to sue or continue a lawsuit against Bluestem over the released claims.

What will happen if the Court does not approve the settlement?

If the Court does not finally approve the settlement or if it finally approves the settlement and the approval is reversed on appeal, or if the settlement does not become final for some other reason, you will receive no benefits from the settlement and the lawsuit will continue.

Who are Mr. Williams' attorneys?

Mr. Williams' attorneys are:

Michael L. Greenwald
James L. Davidson
Greenwald Davidson Radbil PLLC
7601 N. Federal Highway, Suite A-230
Boca Raton, FL 33487

Aaron D. Radbil
Greenwald Davidson Radbil PLLC
401 Congress Avenue, Suite 1540
Austin, TX 78701

The Court has appointed Mr. Williams' attorneys to act as Class Counsel. You do not have to pay Class Counsel. If you want to be represented by your own lawyer, and have that lawyer appear in Court for you in this case, you must hire one at your own expense.

Who are Bluestem's attorneys?

Bluestem's attorneys are:

Erin Hoffman
Nate Brennaman
Faegre Baker Daniels LLP
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402

Kimberly A. Koves
Ailen Cruz
Wiand Guerra King P.A.
5505 W. Gray Street
Tampa, FL 33609

Before what Court is this matter pending?

Mr. Williams filed his class action lawsuit in the following Court:

U.S. District Court for the Middle District of Florida
Sam M. Gibbons United States Courthouse
801 North Florida Avenue
Tampa, FL 33602

Where can you get additional information?

This notice is only a summary of the settlement. All documents filed with the Court, including the full class action settlement agreement, may be reviewed or copied at the United States District Court for the Middle District of Florida. In addition, pertinent case materials, including the settlement agreement, are available at the settlement website, www.BluestemSettlement.com.

If you would like additional information about this matter, please contact:

Williams v. Bluestem Settlement Administrator
1650 Arch Street, Suite 2210
Philadelphia, PA 19103

Telephone: 1-888-925-5234

Please do not call the Judge about this case. Neither the judge, nor the Clerk of Court, will be able to give you advice about this case. Furthermore, neither Bluestem nor Bluestem's attorneys represent you, and they cannot give you legal advice.