

**UNITED STATE DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

AARON DONDE, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

**FREEDOM FRANCHISE SYSTEMS,
LLC**, a Florida company, and **FREEDOM
ADVENTURES, LLC**, a Florida company,

Defendants.

Case No. 0:19-cv-60785-DPG

**DECLARATION OF JENNY
SHAWVER OF ANGEION GROUP**

I, JENNY SHAWVER, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct to the best of my knowledge:

1. I am a Project Manager with Angeion Group, LLC (“Angeion”), the Settlement Administrator retained in this matter, located at 1650 Arch Street, Suite 2210, Philadelphia, PA 19103. I am over 21 years of age and am not a party to this action. I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto.

2. Angeion was retained by the Parties and appointed by this Court to serve as Settlement Administrator and to, among other tasks, provide Notice of Proposed Class Action Settlement to the Settlement Class, and perform other duties as specified in the Class Action Settlement Agreement and Release (“Settlement Agreement”) and by the directives of the Court, including but not limited to the Court’s Order Preliminarily Approving Class Action Settlement, Certifying Settlement Class, and Setting Final Approval Hearing, as entered on June 25, 2020.

3. Angeion has administered class action settlements involving millions of class members. A representative list of the settlements administered by Angeion is available at <http://www.angeiongroup.com/cases.htm>. Through the administration of the settlements referenced above, Angeion has received, processed, and secured data from defendants and other

sources. Angeion has analyzed settlement class member data including performing deduplication, National Change of Address Searches (NCOA) and skip traces. Angeion has successfully implemented noticing campaigns involving direct mail notice, email notice, text noticing, printed media, and digital media for millions of potential class members. Further, Angeion has analyzed and reported on class member data obtained through claim forms submitted via mail and through online claims filing, class member correspondence, objections to the settlement, exclusion requests and other means. Angeion is experienced in the application of complex claim calculations and, where applicable, tax withholding and reporting, as required by federal, state, and local taxing authorities, as well as in reviewing settlement agreements and court orders.

4. Angeion is not related to or affiliated with the Plaintiff, Plaintiff's Counsel, Defendants or Counsel for Defendants.

Class Data

5. On or about November 25, 2019, Angeion received from counsel for the Defendants, a list of 90,331 unique telephone numbers categorized as all individuals within the United States (i) who received a text message (ii) on his or her cellular telephone number (iii) from short code 77453 or otherwise sent from or on behalf of the Released Parties (iv) from March 26, 2015 through June 25, 2020, and a separate data file that included names, email addresses and mailing addresses where available in the Defendants' records.

CAFA Notice

6. On December 2, 2019, as required under the Class Action Fairness Act, 28 U.S.C. § 1715 ("CAFA"), Angeion disseminated a Notice of Class Action Settlement by United States Priority Mail to all appropriate Federal and State officials; in total, letters were sent to 54 Federal and State government officials. A copy of the CAFA Notice is attached hereto as Exhibit A.

Notice

7. In preparation of the notice program, Angeion compared the list of 90,331 phone numbers that received text messages against the records in the file containing names, email addresses and mailing addresses provided by the Defendants and located 59,477 email addresses, leaving a balance of 30,854 records with no email addresses.

8. On July 15, 2020, Angeion conducted reverse searches on 30,854 records in an effort to locate email addresses. As a result of the reverse searches, Angeion located 19,913 valid email addresses. This combined with the 58,776 email addresses from the Defendants' records resulted in 79,390 email addresses.

9. Of the remaining 10,941 records with no email address, Angeion was able to obtain a mailing address for 9,184 records.

10. On July 24, 2020, Angeion caused an email Notice of Class Action Settlement ("Email Notice") to be emailed to 79,390 Settlement Class members. The Email Notice is attached hereto as Exhibit B.

11. On July 25, 2020, Angeion caused a postcard Notice of Class Action Settlement ("Postcard Notice") to be mailed to 9,184 Settlement Class members via First Class Mail, postage prepaid. The Postcard Notice is attached hereto as Exhibit C.

Undeliverable Notice

12. As of the date of this declaration, 835 mailed Postcard Notices were returned to Angeion by the USPS. Of these, 5 were returned by the USPS with a forwarding address. Angeion conducted address verification searches (commonly referred to as "skip tracing") on the remaining 830 and obtained new addresses for 305 records. Postcard Notices were remailed to the new addresses.

13. Following the Email Notice campaign, Angeion confirmed 2,786 Email Notices bounced back as undeliverable of which 2,429 were hard bounces and 357 were soft bounces.

Angeion made two additional attempts to deliver Email Notices to the 357 soft bounces and successfully delivered 228. This resulted in a total of 2,558 undeliverable Email Notices.

14. Of the 2,558 Email Notices not delivered, Angeion identified or located a mailing address for 611 records and a Postcard Notice was mailed to these Class Members on August 13, 2020 via First Class Mail, postage prepaid. As of the date of this declaration, 58 mailed Postcard Notices to Class Members for whom Email Notices were undeliverable were returned to Angeion by the USPS without forwarding addresses. Angeion conducted address verification searches and obtained new addresses for 40. Postcard Notices were remailed to the new addresses.

Settlement Website and Toll-Free Phone Number

15. On July 24, 2020, Angeion established the following website devoted to this Settlement: www.FBCTCPAsettlement.com (“Settlement Website”). The Settlement Website includes a claim portal which allows Class Members to file their claim electronically. In addition, Class Members can instead choose to submit a Claim by downloading a Claim Form (which is available in PDF format) and mailing the completed Claim Form to Angeion. The website further contains general information about the Settlement, including answers to frequently asked questions, important dates and deadlines pertinent to this matter, copies of important documents such as the Settlement Agreement, Preliminary Approval Order, Long-Form Notice and Claim Form. The Settlement Website also has a “Contact Us” page whereby Class Members can submit questions regarding the Settlement.

16. As of the date of this declaration, the Settlement Website has had 7,202 page views and 3,743 sessions, which represents the number of individual sessions initiated by all users on the website.

17. On July 24, 2020, Angeion established the following toll-free line dedicated to this case: 1-877-969-1958. The toll-free line utilizes an interactive voice response (“IVR”) system to provide Class Members with responses to frequently asked questions, the ability to request a Claim Form be mailed to them, and includes information about filing a claim and important dates and

deadlines. The toll-free line is accessible 24 hours a day, 7 days a week. As of the date of this declaration, the toll-free number has received approximately 76 calls, totaling 156 minutes.

Claim Form Submissions

18. The deadline for Class Members to submit a Claim Form is October 5, 2020. As of the date of this declaration, Angeion has received a total of 563 Claim Form submissions of which 386 were received via the Settlement Website and 177 were received via the USPS. Angeion also expects that the Claim Form submissions will continue through the claim submission deadline of October 5, 2020. Angeion will continue to keep the parties apprised of the number of Claim Form submissions received.


Opt-Outs and Objections

19. The deadline for the Settlement Class to either opt-out or object to the Settlement is October 2, 2020. As of the date of this Declaration, Angeion has received no requests to opt-out of the Settlement or objections to the Settlement. Angeion will continue to keep the parties apprised of the number of requests to opt-out or objections received.

Distribution and Remaining Tasks

20. Upon issuance of a Final Order from this Court and the achievement of the benchmarks set forth in the Settlement Agreement, Angeion will cause the distribution of Settlement benefits to take place in accordance with terms of the Settlement Agreement or as otherwise directed by this Court.¹

Executed at Novato, California, this 18th day of September, 2020.



JENNY SHAWVER, Declarant

¹ Through July 2020, Angeion has billed \$19,217.56 in notice and administration costs, which is consistent with Angeion's original administration estimate of \$49,491.

EXHIBIT A



1650 Arch Street, Suite 2210
Philadelphia, PA 19103
(p) 215-563-4116
(f) 215-563-8839
www.angeiongroup.com

December 2, 2019

VIA USPS PRIORITY MAIL

United States Attorney General &
Appropriate Officials

Re: Notice of Class Action Settlement

Donde v. Freedom Franchise Systems, LLC

Dear Counsel or Official:

Angeion Group, an independent claims administrator, on behalf of the defendant in the below-described action, hereby provides your office with this notice under the provisions of the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1715, to advise you of the following proposed class action settlement:

Case Name: *Donde v. Freedom Franchise Systems, LLC*

Index Number: 19-cv-60785-SMITH/VALLE

Jurisdiction: United States District Court – Southern District of Florida

Date Settlement Filed with Court: November 22, 2019

In accordance with the requirements of 28 U.S.C. § 1715, please find copies of the following documents associated with this action on the enclosed CD-ROM:

- 1. 28 U.S.C. § 1715(b)(1)-Complaint:** Class Action Complaint, filed with the Court on March 26, 2019 and Amended Class Action Complaint filed with the Court on April 29, 2019.
- 2. 28 U.S.C. § 1715(b)(2)-Notice of Any Scheduled Judicial Hearings:** There are no hearings scheduled at this time.
- 3. 28 U.S.C. § 1715(b)(3)-Notification to Class Members:** The Proposed Long Form Notice, Proposed Email Notice, Proposed Postcard Notice and Proposed Claim Form filed with the Court on November 22, 2019.
- 4. 28 U.S.C. § 1715(b)(4)-Class Action Settlement Agreement:** The Class Settlement Agreement, filed with the Court on November 22, 2019.
- 5. 28 U.S.C. § 1715(b)(5)-Any Settlement or Other Agreements:** Other than the Class Settlement Agreement, no other settlements or other agreements have been contemporaneously made between the Parties.

6. **28 U.S.C. § 1715(b)(6)-Final Judgment:** The Court has not issued a Final Judgment or notice of dismissal as of the date of this CAFA Notice.

28 U.S.C. § 1715(b)(7)(B)-Estimate of Class Members: Based on Defendants' records, there were approximately, 90,331 individuals who received a text message on her or her wireless telephone number from short code 77453 or otherwise sent on behalf of Freedom Franchise Systems, LLC, Freedom Adventures, LLC or an affiliate of these entities from March 26, 2015 through the date of preliminary approval. Given the size of the class and the uncertainty about whether potential class members are in fact class members with valid claims, it is not feasible at this time to provide the names of class members who reside in each state. Included on the enclosed CD-ROM is a document estimating the number of potential class members in each state based on the area codes to which each individual's cellular telephone is assigned (assuming that each number corresponds to a unique individual). Because this is a claims-made settlement, and the period for class members to submit claims has not yet commenced, we cannot provide the precise proportionate share of the claims of class members except that for each valid Claim Form filed, a check for an amount not to exceed \$10.50, less any Notice and Administration Costs, Service Award and Attorney's Fees and Expenses will be issued.

7. **28 U.S.C. §1715(b)(8)-Judicial Opinions Related to the Settlement:** The Court has not issued a judicial opinion related to the Settlement at this time.

If you have questions or concerns about this notice, the proposed settlement, or the enclosed materials, or if you did not receive any of the above-listed materials, please contact this office.

Sincerely,

Angeion Group
1650 Arch Street, Suite 2210
Philadelphia, PA 19103
(p) 215-563-4116
(f) 215-563-8839

Enclosures

EXHIBIT B

From Email: DoNotReply@FBCTCPAsettlement.com
From Name: Freedom Franchise Settlement Administrator
Subject: Notice of Class Action – Freedom Boat Club TCPA Settlement

<<First Name>><<Last Name>>
Notice ID: <<FRExxxxxx>>
Conf Code: <<12345>>

IMPORTANT NOTICE OF CLASS ACTION SETTLEMENT

If You Were Sent a Text Message from or on Behalf of Freedom Franchise Systems, LLC, Freedom Adventures, LLC, or an Affiliate or Franchise of These Entities, You May Be Entitled to a Payment from a Class Action Settlement.

*A federal court authorized this Notice. You are not being sued.
This is not a solicitation from a lawyer.*

A settlement has been reached in a class action lawsuit alleging that Freedom Franchise Systems, LLC (“Freedom Franchise”) and Freedom Adventures, LLC (“Freedom Adventures”) sent text messages to wireless telephone numbers without consent of the recipients in violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227. Freedom Franchise and Freedom Adventures deny the allegations and any wrongdoing. The Court has not decided who is right.

Who’s Included? You received this email because records show that you may be a Settlement Class Member. The Settlement includes all persons who fall within the following class definition:

All individuals within the United States (i) who received a text message (ii) on his or her cellular telephone number (iii) from short code 77453 or otherwise sent from or on behalf of Freedom Franchise, Freedom Adventures, Freedom Boat Club, LLC, or any affiliate or franchise of the foregoing entities (iv) from March 26, 2015 through June 25, 2020.

What Are the Settlement Terms? Freedom Franchise and Freedom Adventures have agreed to pay class members who submit a valid Claim Form and to pay for notice and administration costs of the Settlement, attorneys’ fees and expenses incurred by counsel for the Settlement Class, and a service awards for the Plaintiff. A Settlement Class Member who submits a timely and valid Claim Form will receive a check not to exceed \$10.50 less any Notice and Administration Costs, Service Award, and Attorney’s Fees and Expenses. Only one Claim is allowed per Settlement Class Member.

How Can I Get a Payment? To get a payment, you must submit a Claim Form by the deadline stated below. You may download a Claim Form at the Settlement Website, www.FBCTCPAsettlement.com, or request a Claim Form by calling the Settlement Administrator at the toll-free number below. To be valid, a Claim Form must be completed fully and accurately, signed under penalty of perjury, and submitted timely. You may submit a Claim Form by U.S. mail, email a Claim Form, or file a Claim Form online. If you send in a Claim Form by U.S. mail, it must be postmarked by **October 5, 2020**. If you file a Claim Form online or submit a claim form by email, then you must do so by **11:59 p.m. (EST) on October 5, 2020**.

Your Other Options. If you do not want to be legally bound by the Settlement, you must exclude yourself by **October 2, 2020**. If you do not exclude yourself, you will release any claims you may have, as more fully described in the Settlement Agreement, available at the Settlement Website. You may object to the Settlement by **October 2, 2020**. The Court will hold a Final Approval Hearing on **November 3, 2020 at 9:30 a.m. (EST)** to consider whether to approve the Settlement, a request for attorneys’ fees not to exceed 25% of the Settlement Fund, and Service Award of \$5,000 to the Class Representative. You may appear at the hearing, either yourself or through an attorney you hire, but you don’t have to. For more information, call or visit the Settlement Website.

QUESTIONS? CALL 1-877-969-1958 OR VISIT www.FBCTCPAsettlement.com

EXHIBIT C

Freedom Franchise Systems, LLC
c/o Settlement Administrator
1650 Arch Street, Suite 2210
Philadelphia, PA 19103

PRESORTED
FIRST CLASS MAIL
US POSTAGE PAID
MAG

Legal Notice about a Class Action Settlement



NUMERIC EQUIVALENT

Postal Service: Please Do Not Mark Barcode

Notice ID: «00 ID»

Confirmation Code: «Confirmation Code»

«Name1» «Name2»

«Address1»

«Address2»

«City», «St» «Zip»

«Country»

If You Received a Text Message from or on Behalf of Freedom Franchise Systems, LLC, Freedom Adventures, LLC, or an Affiliate or Franchise of These Entities, You May Be Entitled to a Payment from a Class Action Settlement.

A \$948,475.50 settlement has been reached in a class action lawsuit alleging that Freedom Franchise Systems, LLC (“Freedom Franchise”) and Freedom Adventures, LLC (“Freedom Adventures”) sent text messages to wireless telephone numbers without consent of the recipients in violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227. Freedom Franchise and Freedom Adventures deny the allegations in the lawsuit and the Court has not decided who is right.

Who’s Included? You received this notice because Freedom Franchise’s and Freedom Adventures’ records show that you may be a Settlement Class Member. The Settlement includes all persons within the United States who received a text message on their cellular telephone number using short code 77453 or otherwise sent from or on behalf of Freedom Franchise, Freedom Adventures, Freedom Boat Club, LLC, or any other affiliate or franchise of the foregoing entities from March 26, 2015 through June 25, 2020.

What Are the Settlement Terms? Freedom Franchise and Freedom Adventures have agreed to make \$948,475.50 available to the Settlement Class, which will be used to pay individuals who submit valid Claims, Attorneys’ Fees and Expenses, and a Service Award for Plaintiff. Check payments in an amount not to exceed \$10.50, less Notice and Administration Costs, Attorney’s Fees and Expenses, and Service Award from the Settlement Fund, will be distributed to Settlement Class Members who submit a timely and valid Claim. Only one Claim is allowed per Settlement Class Member.

How Can I Get a Payment? To get a payment, you must download or fill out a Claim Form online at www.FBCTCPAsettlement.com. You may send it via e-mail to info@FBCTCPAsettlement.com. The deadline to file a Claim online or via e-mail is **11:59 p.m. EST on October 5, 2020**.

Your Other Options. If you do not want to be legally bound by the Settlement, you must exclude yourself by **October 2, 2020**. If you do not exclude yourself, you will release any claims you may have, as more fully described in the Settlement Agreement, available at the Settlement Website. You may object to the Settlement by **October 2, 2020**. The Court will hold a Final Approval Hearing on **November 3, 2020** to consider whether to approve the Settlement, a request for attorneys’ fees up to 25% of the Settlement Fund, and a service award of \$5,000 to the Class Representative. You may appear at the hearing, either yourself or through an attorney you hire, but you don’t have to. For more information, call or visit the Settlement Website.