

AGREEMENT OF SETTLEMENT AND RELEASE

Subject to approval by the United States District Court for the Northern District of Ohio, Eastern Division, this Agreement of Settlement and Release is entered into between Plaintiff Anton Ferguson, on behalf of himself and other members of the Settlement Class, defined below, and Defendants DIRECTV, LLC and Multiband Corporation, effective April 10, 2018.

RECITALS

The Claims and Issues

WHEREFORE, On December 17, 2015, Plaintiff Anton Ferguson commenced this case as a class action pursuant to Fed. R. Civ. P. 23(a) and (b)(3) on behalf of himself and other class members.

WHEREFORE, Plaintiff alleged, among other claims, that DIRECTV violated the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. § 1681, et seq., by procuring, without written authorizations, a background check on technicians employed by Multiband Corp., and/or a subcontractor thereof to install and/or repair DIRECTV satellite TV equipment.

WHEREFORE, Defendants answered the Complaint (and any amended pleadings filed by the Defendants) and have denied liability and any wrongdoing of any kind.

WHEREFORE The Parties have reached agreement to settle and compromise all of the class and individual claims asserted in this action, which includes a proposed settlement class, the terms of which are as follows:

DEFINITIONS

1. "Action" shall mean the civil action in the United States District Court for the Northern District of Ohio, Eastern Division, entitled *Anton M. Ferguson v. DIRECTV LLC, et al.*, Case No. 1:15-cv-02636.

2. "Settlement Agreement" or "Agreement" shall mean this Agreement of Settlement and Release.

3. "Settlement" shall mean the settlement of the Action upon the terms and conditions set forth in this Settlement Agreement.

4. "Plaintiff" shall mean the named Plaintiff in the Action, Anton M. Ferguson.

5. The "Settlement Class" and the "Class" shall mean all satellite TV technicians of Multiband Corp. or any of its subcontractors for whom background checks were allegedly procured, obtained, and/or reviewed by DIRECTV, LLC without any prior written authorization of such technicians since December 17, 2013 (Count I).

6. "Class Members" shall mean members of the Class.

7. "Class Counsel" shall mean Scott & Winters Law Firm, LLC, including Joseph F. Scott and Ryan A. Winters thereof, and attorney Thomas A. Downie.

8. "Notice" shall mean the notice to Class Members in the form attached as Exhibit 2.

9. "Settlement Administrator" shall mean the settlement administration firm selected by Class Counsel and approved by Defendants.

10. “Defendants” shall mean DIRECTV, LLC and Multiband Corporation, and shall include their respective officers, directors, agents, attorneys, parents, predecessors, successors, subsidiaries, subcontractors (including Go Communications and Simplified Solutions, LLC), and related and affiliated entities.

11. “Parties” shall mean Plaintiff and Defendants, as defined above.

12. “Preliminary Approval Order” shall mean an order granting preliminary approval of the Settlement and approving the Notice in the form attached as Exhibit 3.

13. “Final Order and Judgment” shall mean a final order and judgment entered by the Court granting approval of the Settlement upon the terms and conditions hereof.

14. “Released Period” shall mean the period December 17, 2013 to the date of entry of the Court’s Preliminary Approval Order.

APPROVAL OF SETTLEMENT AND DISMISSAL OF ACTION

15. Cooperation. The Parties agree to cooperate and take all steps necessary and appropriate to obtain final approval of the Settlement, cause the Action to be dismissed with prejudice, and implement the Settlement’s terms.

16. Fair, Adequate and Reasonable Settlement. The Parties agree that the Settlement and the respective payments to be made thereunder are fair, adequate, and reasonable, and will so represent to the Court.

17. Joint Motions for Approval of Settlement. Within one week after the execution of this Agreement, the Parties will jointly move the Court for preliminary approval of the Settlement and of notice to Class Members as provided herein.

Following notice, the parties will jointly move the Court for entry of a Final Order and Judgment granting final approval of the settlement upon the terms and conditions hereof.

SETTLEMENT PAYMENTS

18. Total Settlement Amount. Defendants will pay the total sum of One Hundred Twenty-Five Thousand Dollars (\$125,000) in final and complete settlement of the Action upon the terms and conditions hereof. Count I is settled as a class action, and Count II is settled as an individual action as to Plaintiff Anton Ferguson only.

19. Class Payments to Class Members. The Total Settlement Amount, after the deductions below, will be distributed to Class Members in Class Payments of equal amount. Each of the 816 class members will receive \$72.00 each, for a total of \$58,752.

20. Service Award. Plaintiff Anton Ferguson shall receive a service award in the amount of \$1,500 in recognition of his service to Class Counsel for Count I and his contribution to achieving the Settlement on behalf of all Class Members.

21. Plaintiff Ferguson's Individual Settlement. Plaintiff Ferguson will receive \$8,500 in settlement of the claim asserted in Count II, in which Ferguson asserted that he was discharged without being provided the notices and waiting period required under the Fair Credit Reporting Act. (Count II was initially drafted as a class claim, but through the discovery process no other class claimants were identified and this Count is therefore an individual claim)

22. Attorneys' Fees and Litigation Costs. The Parties' joint motions will request, and Defendants will not oppose, an award of attorneys' fees to Class Counsel

in the amount of \$40,830, that amount being less than one-third of the Total Settlement Amount, plus litigation costs in the amount of \$9,018.

23. Settlement Administration Costs. Costs of administration will be paid to the Settlement Administrator in the approximate amount of \$6,400.

SETTLEMENT ADMINISTRATION

24. Class Roster. Upon the entry of the Preliminary Approval Order by the Court, Defendants will provide the Settlement Administrator and Class Counsel with a roster listing all members of the Settlement Class (“Roster”). The Roster will be in Excel format and will list Class Members’ names, mailing addresses, email addresses, and phone numbers according to Defendants’ records. The Settlement Administrator will update the mailing addresses, as necessary, by reference to the National Change of Address database.

25. Notice Process. Within fourteen days after entry of the Preliminary Approval Order, the Settlement Administrator will send the Notice to Class Members by first-class United States mail. The deadline for Class Members to object to the settlement, or, alternatively, request exclusion from the Class, shall be twenty-one days after the date of mailing of the Notice. The Settlement Administrator will insert the deadline date into the Notice prior to mailing.

26. Settlement Funding and Distributions. Within fourteen days after entry of the Final Order and Judgment, Defendants shall fund the settlement by remitting the Total Settlement Amount to the Settlement Administrator. Within fourteen days after funding, the Settlement Administrator will distribute the Class Payments to Class

Members, the service award and individual settlement amount to Plaintiff Ferguson, and the attorneys' fees and litigation costs to Class Counsel, provided that the Class Payments may be made as soon as practicable thereafter.

27. Income Tax Deductions and Reporting. All distributions shall be treated as non-wage payments to the recipients and reported to the appropriate taxing authorities on Forms 1099.

28. Undeliverable and Uncashed Checks. For any Class Members whose checks are returned as undeliverable or which are not cashed within forty-five days of distribution, the Settlement Administrator will use Lexis-Nexis or other reputable method to update the addresses and re-issue payment to the updated address that are found. Checks that remain undeliverable or uncashed 180 days after entry of the Final Order and Judgment shall be reallocated to the Class Members who cashed their checks.

29. The Administrator will keep the Parties' counsel reasonably informed about the progress of the administration at approximately thirty-day intervals.

RELEASE OF CLAIMS

30. Released Claims. Ferguson and the Class Members release Defendants from all claims asserted in Count I under the Fair Credit Reporting Act, 15 U.S.C. § 1681, et seq., as well as any claim under state or federal law arising from the procurement of background checks or other consumer reports on them by any Defendant or subcontractor thereof, arising at any time through the date that a Court grants final approval of the settlement in this matter.

31. Release of Attorneys' Fees and Expenses. Plaintiff and Class Counsel agree that the payment of attorneys' fees and litigation costs to Class Counsel pursuant to this Agreement includes, satisfies, and extinguishes all claims for attorneys' fees and expenses recoverable in the action. In consideration of such payment of attorneys' fees and expenses, Class Counsel release and waive any and all claims to further attorneys' fees and expenses in connection with the Action.

GENERAL PROVISIONS

32. Court Approval. This Agreement is conditioned upon approval by the Court. If the Court denies preliminary or final approval, the Action will resume as it existed prior to the execution of this Agreement.

33. No Admission. Nothing contained in this Settlement Agreement shall be construed or deemed an admission of liability, culpability, negligence or wrongdoing on the part of Defendants, and Defendants deny any such liability. Each Party has entered into this Settlement with the intention to avoid further disputes and litigation with the attendant inconvenience and expenses.

34. Construction. The Parties agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive arms-length negotiations between the Parties and that this Settlement Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party participated in the drafting of this Settlement Agreement.

35. Modification. This Settlement Agreement may not be changed, altered or modified, except in a writing signed by the Parties and approved by the Court.

36. Integration. This Settlement Agreement contains the entire agreement between the Parties, and all prior or contemporaneous agreements, understandings, representations and statements, whether oral or written and whether by a Party or such Party's legal counsel, relating to the resolution of the Action, are merged in this Settlement Agreement. No rights under this Settlement Agreement may be waived except in writing signed by the Parties.

37. Assigns. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, trustees, executors, administrators, successors and assigns.

38. Counterparts. This Settlement Agreement may be executed in counterparts. When each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Settlement Agreement, which shall be binding upon and effective as to all Parties.

39. Jurisdiction. The parties request that the Court retain jurisdiction to enforce the terms of the Settlement and this Settlement Agreement.

SO AGREED:


Anton Ferguson, Plaintiff

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