

United States District Court for the Central District of California

If You Received A Call From Nissan Motor Acceptance Corporation On Your Cellular Telephone By Means Of An Automatic Telephone Dialing System And/Or An Artificial Or Prerecorded Voice, And You Were Not A Party To Any Contract With Nissan Motor Acceptance Corporation, You Could Receive A Payment From A Class Action Settlement.

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

- A non-customer brought a lawsuit alleging that Nissan Motor Acceptance Corporation (“NMAC” or “Defendant”) violated the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227. The lawsuit alleges that NMAC used an automatic telephone dialing system and/or an artificial or prerecorded voice to initiate calls (“Automatic Calls”) to cell phones of non-customers of NMAC without prior express consent. NMAC denies these allegations.
- A settlement has been reached in this case, which affects individuals who received an Automatic Call regarding an NMAC automobile financing account, and the person receiving the Automatic Call was not a party to any agreement with NMAC, between March 24, 2012 and October 3, 2019.
- The Settlement, if approved, would provide \$2,200,000.00 to pay valid and timely claims of those persons who received any of the above-described Automatic Calls from NMAC, as well as to pay Class Counsel’s attorneys’ fees and costs, a service award to the Class Representatives, and administrative costs of the Settlement; avoid the further cost and risk associated with continuing the lawsuit; and release NMAC from further liability.
- **Your legal rights are affected whether you act or don’t act. You will only receive a payment if you act by responding to this Notice. Please read this Notice carefully.**
- **On the website, www.TerteryanTCPASettlement.com, there is a complete notice of the Settlement in Spanish. En el sitio web, www.TerteryanTCPASettlement.com, hay una notificación completa del acuerdo en Español. Para escuchar esta información en Español, favor de llamar a la línea de asistencia del arreglo al 1-855-582-3162.**

| Your Legal Rights and Options in this Settlement | |
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| Submit a Claim Form | This is the only way to get a payment. You can submit a valid and timely Claim Form online at www.TerteryanTCPASettlement.com or by mail to Terteryan NMAC TCPA Settlement, P.O. Box 43151, Providence, RI 02940-3151 postmarked by July 15, 2022, or by calling the toll-free number 1-855-582-3162. If you fail to do so by July 15, 2022, you will not receive a settlement payment. |
| Do Nothing | Get no payment. Give up any rights to sue NMAC separately regarding the legal claims in this case. |
| Exclude Yourself or “Opt Out” of the Settlement | If you ask to be excluded, you will get no payment. You will also not waive any rights you may have against NMAC with respect to the legal claims in this case. You may bring your own lawsuit to recover any claimed damages. |
| Object | Write to the Court about why you believe the Settlement is unfair. |
| Go to a Hearing | Ask to speak in Court about the fairness of the Settlement. |

These rights and options—and the deadlines to exercise them—are explained in this Notice.

The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made on valid and timely claims if the Court approves the Settlement and after any appeals are resolved. Please be patient.

BASIC INFORMATION

1. Why is there a Notice?

A Court authorized this Notice because you have a right to know about a proposed Settlement of this class action lawsuit, and about all of your options, before the Court decides whether to approve the Settlement. If the Court approves the Settlement and after any objections or appeals are resolved, an administrator appointed by the Court will make the payments that the Settlement allows. Because your rights will be affected by this Settlement, it is important that you read this Notice carefully.

If you received a Notice in the mail, it is because, according to Plaintiffs' analysis of NMAC's records, you may have received one or more Automatic Calls from NMAC in connection with an automobile retail installment sale contract that you were not a party to, between March 24, 2012 and October 3, 2019.

The Court in charge of the case is the United States District Court for the Central District of California, and the case is known as *Terteryan, et al. v. Nissan Motor Acceptance Corp.*, Case 2:16-cv-02029 GW (C.D. Cal.). The proposed Settlement would resolve all claims in this case. The people who sued are called the Plaintiffs and the company sued, Nissan Motor Acceptance Corporation, is called the Defendant and is referred to in this Notice as "NMAC."

2. What is this class action lawsuit about?

A class action is a lawsuit in which the claims and rights of many people are decided in a single court proceeding. Representative plaintiffs, also known as "Class Representatives," assert claims on behalf of the entire Class.

The Class Representatives filed this Action alleging that NMAC violated the TCPA by using an automatic telephone dialing system and/or an artificial or prerecorded voice to call cell phones without the prior express consent of the recipients.

NMAC denies that it did anything wrong, or that this case is appropriate for treatment as a class action.

3. Why is there a Settlement?

The Court did not decide in favor of the Plaintiffs or Defendant. Both sides agreed to a settlement instead of going to trial. That way, they avoid the cost of a trial, and the people affected will be guaranteed to get compensation if they submit a valid Claim Form. The Class Representatives and their attorneys think the Settlement is best for all Class Members.

WHO IS IN THE SETTLEMENT?

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

The Settlement provides relief for all Class Members, who are described as all persons in the United States to whose cellular telephones NMAC placed one or more non-emergency telephone calls with equipment that constitutes or may constitute an automatic telephone dialing system, as well as artificial or prerecorded voice calls, between March 24, 2012 and October 3, 2019 who were not a party to any agreement with NMAC.

Excluded from the Class is NMAC, any affiliate or subsidiary of NMAC, and any entities in which any of such companies have a controlling interest, as well as all persons who validly opt out of the Settlement Class. None of the attorneys involved or the Court can participate as Class Members of this Settlement.

If you have questions about whether you are a Class Member, or are still not sure whether you are included, you can call 1-855-582-3162 or visit www.TerteryanTCPASettlement.com for more information.

THE SETTLEMENT BENEFITS - WHAT YOU GET

5. What does the Settlement provide?

NMAC has agreed to pay a total settlement amount of \$2,200,000, which will be used to create a Settlement Fund to pay Cash Awards to Settlement Class Members who submit a valid and timely claim, pay Class Counsel's attorneys' fees and costs, pay a service award to the Class Representatives, and pay costs and expenses of settlement administration.

Any remaining monies from uncashed Settlement Awards may be distributed to Class Members who submitted a valid and timely claim and cashed settlement checks. However, if a further distribution would result in less than \$1 per qualifying claimant, the remaining monies will instead be donated to The Samuelson Law Clinic, as the *cy pres* recipient.

HOW YOU GET A PAYMENT

6. How and when can I get a payment?

Each Class Member who submits a valid and timely Claim Form will receive a Cash Award. A Cash Award is a cash payment. The final cash payment amount will depend on the total number of valid and timely claims filed by all Class Members. Class Counsel estimate that the amount of the Cash Award (while dependent upon the number of claims) may be within the range of \$50 to \$100. Eligible Settlement Class Members may make one claim per associated unique cellular telephone number called.

Claims must be postmarked by **July 15, 2022** They may be submitted electronically via the Settlement Website, by calling the toll-free number 1-855-582-3162, or by mail to:

Terteryan NMAC TCPA Settlement, P.O. Box 43151, Providence, RI 02940-3151

If you did not receive a Claim number via mail previously then you must file your claim by mail to:

Terteryan NMAC TCPA Settlement, P.O. Box 43151, Providence, RI 02940-3151

You may obtain a Claim Form from the website by selecting the "Print and Mail" option under the File a Claim section, or you may request a Claim Form to be mailed to your address by calling the toll-free number 1-855-582-3162.

If you are a Class Member and need help with the Claim Form the Settlement Administrator and law firms representing the Class listed in Question 9 can help you complete and submit your claim.

The Court will hold a hearing on **Aug. 22, 2022**, to decide whether to approve the Settlement. If the Settlement is approved, appeals may still follow. It is always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. Please be patient.

7. What am I giving up to get a payment or stay in the Class?

If you are a Class Member, unless you exclude yourself, you can't sue, continue to sue, or be part of any other lawsuit against NMAC about the legal issues in this case, and all of the decisions and judgments by the Court will bind you.

For non-emergency calls made using an automatic telephone dialing system and/or an artificial or prerecorded voice without the prior express consent of the called party, the TCPA provides for damages of \$500 per violation, or up to \$1,500 for willful violations, plus an injunction limiting future conduct. However, NMAC has denied that it made any illegal calls to anyone, and in any future lawsuit it will have a full range of potential defenses, including that it had prior express consent to make the calls. In addition, the TCPA does not provide for attorneys' fees to prevailing individual plaintiffs. This Settlement permits Class Members the opportunity to obtain a smaller amount of money, risk-free.

If you file a Claim Form for benefits or do nothing at all, you will be unable to file your own lawsuit regarding the claims described in this Notice, and you will release NMAC from any liability for the Released Claims defined below and in the Settlement.

Remaining in the Class means that you, as well as your respective assigns, executors, administrators, successors and agents will release, resolve, relinquish and discharge each and all of the Released Parties from each of the Released Claims (as defined below). You further agree that you and they will not institute any action or cause of action (in law, in equity or administratively), suits, debts, liens, or claims, known or unknown, fixed or contingent, which you may have or claim to have, in state or federal court, in arbitration, or with any state, federal or local government agency or with any administrative or advisory body, arising from the Released Claims.

“Released Claims” mean any and all claims, causes of action, suits, obligations, debts, demands, agreements, promises, liabilities, damages, losses, controversies, costs, expenses and attorneys’ fees of any nature whatsoever, whether based on any federal law, state law, common law, territorial law, foreign law, contract, rule, regulation, any regulatory promulgation (including, but not limited to, any opinion or declaratory ruling), common law or equity, whether known or unknown, suspected or unsuspected, asserted or unasserted, foreseen or unforeseen, actual or contingent, liquidated or unliquidated, punitive or compensatory, as of the date of the Final Approval Order, that arise out of or relate to the Released Parties’ use of an “automatic telephone dialing system” or “artificial or prerecorded voice” to contact or attempt to contact Settlement Class Members during the Class Period. Nothing in the Settlement shall be construed as a waiver of Settlement Class Members’ rights to contact, in any way or for any purpose, any state or federal agency regarding the activities of any party.

The Settlement Agreement (available at the website) provides more details regarding the release and describes the Released Claims with specific descriptions in necessary, accurate legal terminology, so read it carefully. You can talk to the law firms representing the Class listed in Question 9 for free, or you can, at your own expense, talk to your own lawyer if you have any questions about the Released Parties or the Released Claims or what they mean.

The release does not apply to Class Members who timely opt out of the Settlement.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you don’t want a payment from this Settlement, and you want to keep the right to sue or continue to sue NMAC on your own about the legal issues in this case, then you must take steps to exclude yourself from the Settlement.

8. How do I exclude myself from the Settlement?

To exclude yourself from the Settlement, you must send a letter by mail saying that you want to be excluded from *Terteryan, et al. v. Nissan Motor Acceptance Corp.*, Case No. 2:16-cv-02029 GW (C.D. Cal.). Be sure to include your full name, address, and telephone number. You must also include a statement that you wish to be excluded from the Settlement. **You must mail your exclusion request postmarked no later than June 17, 2022**, to:

Terteryan NMAC TCPA Settlement, P.O. Box 43151, Providence, RI 02940-3151

If you ask to be excluded, you will not get any Cash Award and you cannot object to the Settlement. You will not be legally bound by anything that happens in this lawsuit. You may be able to sue (or continue to sue) NMAC in the future. Although no other person may exclude you from the Settlement Class, nothing prohibits you from obtaining the assistance of another, such as a lawyer or family member, in preparing or submitting any individual exclusion.

THE LAWYERS REPRESENTING YOU

9. Do I have a lawyer in this case?

The Court appointed the following law firms to represent you and other Class Members:

Kemnitzer, Barron & Krieg, LLP and Lyngklip & Associates, Consumer Law Center, PLC have been designated as co-lead Class Counsel.

All of these lawyers are called Class Counsel. You will not be charged separately for these lawyers’ services. If you want to be represented by your own lawyer, you may hire one at your own expense.

Additionally, you may enter an appearance through your own attorney if you so desire, but you do not need to do so.

10. How will the lawyers and Class Representatives be paid?

Class Counsel will ask the Court to approve payment of up to \$775,000 (35% of the Settlement Fund) to compensate them for expenses and for attorneys’ fees for investigating the facts, litigating the case, and negotiating the Settlement. Class Counsel will also request an award of \$10,000 to each of the Class Representatives as compensation for their time and effort. The Court may award less than these amounts. These payments, along with the costs of administering the Settlement, will be made out of the Settlement Fund.

Any objection to Class Counsel’s application for attorneys’ fees and costs and Class Representatives’ payment may be filed, and must be postmarked, no later than **June 17, 2022**, which is 30 days following the filing of Class Counsel’s motion for an award of attorneys’ fees and costs and Class Representatives’ payment.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you do not agree with the Settlement or some part of it.

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| 11. How do I tell the Court that I do not think the Settlement is fair? |
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You can tell the Court that you don't agree with the Settlement or some part of it. If you are a Class Member, you can object to the Settlement if you do not think the Settlement is fair. You can state reasons why you think the Court should not approve it. The Court will consider your views. To object, you must file a written statement with the Court saying that you object to the proposed Settlement in *Terteryan, et al. v. Nissan Motor Acceptance Corp.*, Case No. 2:16-cv-02029 GW (C.D. Cal.). Be sure to include your full name, address, current phone number, cellular telephone number(s) NMAC called, the reasons you object to the Settlement, and whether you intend to appear at the Fairness Hearing on your own behalf or through counsel. All objections shall identify any lawyer that represents you as to the Action or your objection. If you choose not to appear at the Fairness Hearing, you will waive your right to appeal. Any documents that you wish for the Court to consider must also be attached to the objection, and your objection should also be sent to Class Counsel and counsel for NMAC. **Your objection to the Settlement must be filed no later than June 17, 2022.**

The objection must be provided as follows to the following:

| For Filing: | By Mail: |
|---|--|
| <p><i>Terteryan et al. v. Nissan Motor Acceptance Corp.</i> Case No. 2:16-cv-02029 GW (C.D. Cal.). Kiry Gray Clerk of the Court U.S. District Court for the Central District of California 350 W. 1st Street, Suite 4311 Los Angeles, CA 90012-4565</p> | <p>Bryan Kemnitzer Adam J. McNeile Kemnitzer, Barron & Krieg, LLP 42 Miller Avenue Mill Valley, CA 94941</p> <p>Ian Lyngklip Lyngklip & Associates, Consumer Law Center, PLC 24500 Northwestern Hwy #206 Southfield, MI 48075</p> <p><i>Attorneys for Plaintiff and the Settlement Class</i></p> |
| | <p>Mark D. Lonergan Rebecca S. Saelao Severson & Werson A Professional Corporation One Embarcadero Center, Suite 2600 San Francisco, CA 94111</p> <p>Scott J. Hyman Genevieve R. Walser-Jolly Severson & Werson A Professional Corporation 19100 Von Karman Avenue, Suite 700 Irvine, CA 92612</p> <p><i>Attorneys for Defendant</i></p> |

THE COURT'S FAIRNESS HEARING

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

The Court will hold a hearing to decide whether to approve the Settlement. This Fairness Hearing will be held at 8:30 a.m. on **Aug. 22, 2022**, at the United States District Court for the Central District of California, 350 West 1st Street, Los Angeles, CA 90012, in Courtroom 9D. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check the website for updates. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate, and whether to award attorneys' fees, expenses, and a service award as described above, and in what amounts. If there are objections, the Court will consider them. At or after the hearing, the Court will decide whether to approve the Settlement. We do not know how long it will take the Court to issue its decision. **It is not necessary for you to appear at this hearing, but you may attend at your own expense.**

13. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that you intend to appear at the Fairness Hearing in *Terteryan, et al. v. Nissan Motor Acceptance Corp.*, Case No. 2:16-cv-02029 GW (C.D. Cal.). Be sure to include your full name, address, and telephone number. Your letter stating your notice of intention to appear must be postmarked no later than June 17, 2022, and be sent to Kiry Gray, Clerk of the Court, United States District Court for the Central District of California, 350 W. 1st Street, Suite 4311, Los Angeles, CA 90012-4565. You cannot speak at the hearing if you exclude yourself.

IF YOU DO NOTHING

14. What happens if I do nothing at all?

If you do nothing, and are a Class Member, you will not receive a payment after the Court approves the Settlement and any appeals are resolved. In order to receive a payment, you must submit a Claim Form. Unless you exclude yourself, you won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against NMAC about the legal issues in this case ever again.

GETTING MORE INFORMATION

15. How do I get more information?

This Notice summarizes the proposed Settlement. More details are available in the Settlement Agreement. You can get a copy of the Settlement Agreement by calling the Settlement Administrator toll-free at 1-855-582-3162, writing to: Terteryan NMAC TCPA Settlement, P.O. Box 43151, Providence, RI 02940-3151; or visiting the website at www.TerteryanTCPASettlement.com, where you will also find answers to common questions about the Settlement, a Claim Form, plus other information to help you determine whether you are a Class Member and whether you are eligible for a payment.

On the website, www.TerteryanTCPASettlement.com, there is a complete notice of the Settlement in Spanish.

En el sitio web, www.TerteryanTCPASettlement.com, hay una notificación completa del acuerdo en Español.

16. How can I find out if there are any changes to the time for the Fairness Hearing or to the Settlement?

Any changes to the date and time of the Fairness Hearing will be posted to the website for the Settlement at www.TerteryanTCPASettlement.com. Any changes to the Settlement, including the proposed date of any distributions, will also be posted on this Website.