

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

GERARDO ARANDA, GRANT
BIRCHMEIER, STEPHEN PARKES, and
REGINA STONE, on behalf of themselves and
a class of others similarly situated,

Plaintiffs,

v.

CARIBBEAN CRUISE LINE, INC.,
ECONOMIC STRATEGY GROUP,
ECONOMIC STRATEGY GROUP, INC.,
ECONOMIC STRATEGY, LLC, THE
BERKLEY GROUP, INC., and VACATION
OWNERSHIP MARKETING TOURS, INC.,

Defendants.

Case No. 1:12-cv-04069

Honorable Matthew F. Kennelly

CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (“Agreement” or “Settlement Agreement”) is entered into by and among Gerardo Aranda, Grant Birchmeier, Stephen Parkes, Regina Stone (collectively “Plaintiffs”), the Settlement Class (as defined herein), and Defendants Caribbean Cruise Line, Inc., Vacation Ownership Marketing Tours, Inc. and The Berkley Group, Inc., (collectively “Defendants”) (together, the “Parties”). This Settlement Agreement is intended by the Parties to fully, finally, and forever resolve, discharge, and settle the Released Claims (as defined below), upon and subject to the terms and conditions of this Settlement Agreement, and subject to the final approval of the Court.

RECITALS

A. Three putative class actions were related and consolidated in the United States District Court for the Northern District of Illinois under the caption *Birchmeier, et al. v. Caribbean Cruise Line, Inc., et al.*, Case No. 1:12-cv-04069 (the “Action”). (Dkt. 93.) A

consolidated amended complaint alleged that Defendants violated the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227(b)(1)(A)(iii) and 47 U.S.C. § 227(b)(1)(B), by placing unsolicited calls to consumers’ cellular and landline telephones using an artificial or prerecorded voice offering a free cruise in exchange for taking an automated public opinion and/or political survey. (Dkt. 102.)

B. Following discovery and briefing on class certification, the Court on August 11, 2014 certified two classes: one for individuals who had received cellular phone calls and one for individuals who had received landline calls with an artificial or prerecorded voice offering a free cruise in exchange for taking an automated public opinion and/or political survey. (Dkt. 241.)

C. On March 23, 2015, the consolidated complaint was amended to add Plaintiff Gerardo Aranda as a named-plaintiff (Dkt. 289), and the Action was subsequently referred to as *Aranda, et al. v. Caribbean Cruise Line, Inc., et al.*, Case No. 1:12-cv-04069.

D. On February 13, 2015, the Court approved a notice plan (Dkt. 277) and notice of the Action was sent to class members as ordered. (Dkt. 324.)

E. After a period of extensive fact discovery, Defendants moved for summary judgment, arguing that they were not liable for the calls, which had been placed by another company. (Dkts. 340-345.) Plaintiffs moved for partial summary judgment, asking the Court to hold that—regardless of who made them or was ultimately liable for them—the calls violated the TCPA. (Dkt. 336.) On April 18, 2016, the Court denied Defendants’ motions and partially granted Plaintiffs’ motion. (Dkt. 421.) A trial date of September 12, 2016 was set. (Dkt. 423.)

F. Following the United States Supreme Court’s decision in *Spokeo v. Robins*, 136 S. Ct. 1540 (2016) in May of 2016, Defendants filed motions to decertify the classes and Defendants CCL and VOMT filed a second motion for summary judgment based on a purported

lack of Article III standing. (Dkts. 428, 434.) The motions were fully briefed, and on August 23, 2016, the Court denied the motions. (Dkt. 456.) Trial remained set for September 12, 2016.

G. Throughout the course of the litigation, the Parties engaged in both formal and informal attempts at settlement. Most of these were unsuccessful. For example, on May 20, 2014, the Parties participated in a formal mediation session with the Honorable Wayne R. Andersen (Ret.) of JAMS in Chicago. With Judge Andersen's guidance, the Parties engaged in numerous rounds of arm's-length negotiations, but made no real progress toward resolution. After the classes were certified, the Parties attended a subsequent mediation, again before Judge Andersen, on July 1, 2015. Nevertheless, the Parties remained too far apart in their respective settlement positions to reach a resolution.

H. As trial approached, the Parties renewed their settlement communications. On September 2, 2016, and again on September 7, 2016, the Parties met with Judge Andersen and engaged in several more rounds of arm's-length negotiations. Negotiations continued for the next several days, and on September 8, 2016, immediately prior to the pretrial conference and hearing on motions *in limine*, the Parties finalized the material terms of the class relief in a binding memorandum of understanding.

I. Plaintiffs believe that Defendants are liable for the calls at issue in the Action, and that Plaintiffs would have ultimately succeeded at trial. Nevertheless, Plaintiffs and Class Counsel recognize that Defendants have raised factual and legal defenses in the Action that present a material risk that Plaintiffs may not have prevailed. Plaintiffs and Class Counsel also have taken into account the uncertain outcome and risks of a complex jury trial. Therefore, Plaintiffs believe that it is desirable that the Released Claims be fully and finally compromised, settled, resolved with prejudice, and barred pursuant to the terms and conditions set forth in this

Agreement.

J. Based on their comprehensive examination and evaluation of the law and facts relating to the matters at issue in the Action, Class Counsel have concluded that the terms and conditions of this Agreement are fair, reasonable, and adequate to resolve the alleged claims of the Settlement Class, and that it is in the best interests of the Settlement Class Members to settle the claims raised in the Action pursuant to the terms and conditions set forth in this Agreement.

K. At all times, Defendants have denied, and continue to deny, any wrongdoing whatsoever. Specifically, Defendants deny that the calls violate the TCPA, that they are liable for the calls at issue, and they are prepared to present a vigorous defense at trial. Nevertheless, taking into account the uncertainty and risks inherent in any jury trial, Defendants have concluded that further defense of the Action would be burdensome and expensive, and that it is desirable and beneficial to fully and finally settle and terminate the Action in the manner and upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among Plaintiffs, the Settlement Class, and Defendants, by and through their respective counsel, that, subject to final approval of the Court after a hearing or hearings as provided for in this Settlement Agreement, or as otherwise ordered by the Court, and in consideration of the benefits flowing to the Parties from the Settlement Agreement set forth herein, the Action and the Released Claims shall be fully and finally compromised, settled, and released, and the Action shall be dismissed with prejudice, upon and subject to the terms and conditions set forth in this Agreement.

AGREEMENT

1. DEFINITIONS.

As used in this Settlement Agreement, the following terms have the meanings specified below:

1.1. **“Action”** means the case captioned *Aranda, et al. v. Caribbean Cruise Line, Inc., et al.*, Case No. 1:12-cv-04069, pending in the United States District Court for the Northern District of Illinois.

1.2. **“Approved Claim”** means a Claim Form submitted by a Settlement Class Member that is (a) submitted timely and in accordance with the directions on the Claim Form and the provisions of the Settlement Agreement, (b) fully and truthfully completed and executed, with all of the information requested in the Claim Form, (c) signed by the Settlement Class Member, physically or electronically, affirming that the Settlement Class Member received a call offering a free cruise in exchange for taking an automated public opinion and/or political survey on their landline or cellular telephone, and (d) is verified by the Settlement Administrator pursuant to Sections 5.1 and 5.2 and has not been successfully challenged pursuant to Sections 2.2(a) and 5.3 through 5.7.

1.3. **“Claim Form”** means the document substantially in the form attached hereto as Exhibits A and B, as approved by the Court. The Claim Form, to be completed by Settlement Class Members who wish to file a Claim for a payment pursuant to this Agreement, shall be available in paper and electronic format. The Claim Form will require each Settlement Class Member to provide, the Settlement Class Member’s (1) name, (2) current address, and (3) cellular or landline telephone number that received the call(s) offering a free cruise in exchange for taking an automated public opinion and/or political survey. The Claim Form will also require

the Settlement Class Member to select one of two options, depending on the number of calls received. The first option is for Settlement Class Members that received up to three calls. The second option is for Settlement Class Members that received more than three calls. Settlement Class Members whose numbers are on the Class List will not have to submit any documentation or other proof evidencing receipt of those calls along with their Claim Form. Settlement Class Members whose numbers are not on the Class List will be required to submit documentation or other proof evidencing receipt of those calls along with their Claim Form.

1.4. **“Claims Deadline”** means the date by which all Claim Forms must be postmarked or submitted on the settlement website established pursuant to Paragraph 4.2(d) to be considered timely and shall be set as a date no later than fourteen (14) days before the Final Approval Hearing. The Claims Deadline shall be clearly set forth in the Preliminary Approval Order as well as in the Notice and the Claim Form.

1.5. **“Class Counsel”** means Jay Edelson of Edelson PC and Scott Rauscher of Loevy & Loevy.

1.6. **“Class List”** means the approximately 900,000 telephone numbers that appear in Defendants’ records and/or the records of their third party telephone carriers or the third party telephone carriers of their call centers of Settlement Class Members who received calls offering a free cruise in exchange for taking an automated public opinion and/or political survey on their landline or cellular telephone.

1.7. **“Class Representatives”** means the named Plaintiffs in this Action, Gerardo Aranda, Grant Birchmeier, Stephen Parkes, and Regina Stone.

1.8. **“Court”** means the United States District Court for the Northern District of Illinois, the Honorable Mathew F. Kennelly presiding, or any judge who shall succeed him as

judge in this Action.

1.9. **“Defendant Berkley”** means The Berkley Group, Inc.

1.10. **“Defendant Berkley’s Counsel”** means Brian P. O’Meara of Forde Law Offices LLP.

1.11. **“Defendant CCL”** means Caribbean Cruise Line, Inc.

1.12. **“Defendant CCL’s Counsel”** means Richard Epstein and Jeffrey Backman of Greenspoon Marder, PA.

1.13. **“Defendant VOMT”** means Vacation Ownership Marketing Tours, Inc.

1.14. **“Defendant VOMT’s Counsel”** means Richard Epstein and Jeffrey Backman of Greenspoon Marder, PA.

1.15. **“Defendants”** means Defendant CCL, Defendant VOMT, and Defendant Berkley, collectively.

1.16. **“Defendants’ Counsel”** means Defendant CCL’s Counsel, Defendant VOMT’s Counsel, and Defendant Berkley’s Counsel, collectively.

1.17. **“Effective Date”** means the first business day after which all of the events and conditions specified in Paragraph 9.1 have been met and have occurred.

1.18. **“Escrow Account”** means a separate interest-bearing escrow account to be established by the Settlement Administrator, from which all payments out of the Settlement Fund, including for Approved Claims made by Settlement Class Members, Settlement Administration Expenses, any incentive award to the Class Representatives, and any Fee Award to Class Counsel, will be made. The Escrow Account shall be established under terms acceptable to Plaintiffs and Defendants at a depository institution insured by the Federal Deposit Insurance Corporation and that has total assets of at least one billion dollars (\$1,000,000,000) and a short-

term deposit rating of at least P-1 (Moody's) or A-1 (Standard & Poor's). The money in the Escrow Account shall be invested in the following types of accounts and/or instruments and no other: (i) demand deposit accounts and/or (ii) time deposit accounts and certificates of deposit, in either case with maturities of forty-five (45) days or less. The costs of establishing, maintaining, and administering the Escrow Account shall be deducted from the Settlement Fund. Any interest earned on the Escrow Account shall be considered part of the Settlement Fund and may be used to secure a bond on future payments to the Settlement Fund required by this Agreement.

1.19. **“Fee Award”** means the amount of attorneys' fees and reimbursement of costs and expenses awarded by the Court to Class Counsel from the Settlement Fund.

1.20. **“Final”** means one (1) business day following the latest of the following events: (i) the date upon which the time expires for filing or noticing any appeal of the Court's Final Judgment approving this Settlement Agreement; (ii) if there is an appeal or appeals, other than an appeal or appeals solely with respect to the Fee Award and/or incentive award, the date of completion, in a manner that finally affirms and leaves in place the Final Judgment without any material modification, of all proceedings arising out of the appeal or appeals (including, but not limited to, the expiration of all deadlines for motions for reconsideration or petitions for review and/or *certiorari*, all proceedings ordered on remand, and all proceedings arising out of any subsequent appeal or appeals following decisions on remand); or (iii) the date of final dismissal of any appeal or the final dismissal of any proceeding on *certiorari*.

1.21. **“Final Approval Hearing”** means the hearing before the Court where the Parties will request the Final Judgment to be entered by the Court approving the Settlement Agreement, and where the Court will determine the Fee Award, and the incentive award to the Class Representatives.

1.22. **“Final Judgment”** means the Final Judgment and order(s) to be entered by the Court approving the Settlement Agreement and determining the Fee Award, and the incentive award to the Class Representatives.

1.23. **“Notice”** means the notice of this proposed Class Action Settlement Agreement and Final Approval Hearing, which is to be sent to the Settlement Class substantially in the manner set forth in this Agreement, fulfills the requirements of Due Process and Federal Rule of Civil Procedure 23, and is substantially in the form of Exhibits B, C, D, E, and F attached hereto.

1.24. **“Notice Date”** means the date by which notice is complete, which shall be a date no later than forty-five (45) days after entry of Preliminary Approval.

1.25. **“Objection/Exclusion Deadline”** means the date by which a written objection to this Settlement Agreement or a request for exclusion submitted by a Person within the Settlement Class must be postmarked and/or filed with the Court, which shall be designated as a date no later than fifty-six (56) days after the Notice Date, or such other date as ordered by the Court.

1.26. **“Parties”** means Plaintiffs Gerardo Aranda, Grant Birchmeier, Stephen Parkes, Regina Stone, and the Settlement Class on the one hand, and Defendants Caribbean Cruise Line, Inc., Vacation Ownership Marketing Tours, Inc., and The Berkley Group, Inc. on the other.

1.27. **“Person”** means, without limitation, any individual and their spouses, heirs, predecessors, successors, agents, representatives, and assigns as well any entity and its past or present heirs, predecessors, successors, agents, representatives, associates, affiliates, parent companies, and assigns.

1.28. **“Plaintiffs”** means Gerardo Aranda, Grant Birchmeier, Stephen Parkes, Regina Stone, and the Settlement Class.

1.29. **“Preliminary Approval”** means the order preliminarily approving the Settlement

Agreement, confirming certification of the Settlement Class, and approving the form of the Notice.

1.30. **“Preliminary Approval Order”** means the proposed order preliminarily approving the Agreement, approving Notice and directing Notice to the Settlement Class, to be submitted to the Court in conjunction with Plaintiffs’ motion for preliminary approval of the Agreement.

1.31. **“Released Claims”** means any and all actual, potential, filed, known or unknown, fixed or contingent, claimed or unclaimed, suspected or unsuspected, claims, demands, liabilities, rights, causes of action, contracts or agreements, extracontractual claims, damages, actual, statutory, punitive, exemplary or multiplied damages, expenses, costs, attorneys’ fees and/or obligations (including “Unknown Claims” as defined below), whether in law or in equity, accrued or unaccrued, direct, individual or representative, of every nature and description whatsoever, whether based on the TCPA or other federal, state, local, statutory or common law or any other law, rule or regulation, including the law of any jurisdiction outside the United States, against the Released Parties, or any of them, arising out of the facts, transactions, events, matters, occurrences, acts, disclosures, statements, representations, omissions or failures to act regarding the alleged calls made with a prerecorded or artificial voice offering a free cruise in exchange for taking an automated public opinion and/or political survey including all claims that were brought or could have been brought in the Action relating to such calls, belonging to any and all Releasing Parties.

1.32. **“Released Parties”** means Defendants, as well as any and all of their respective present or past heirs, executors, estates, trustees, administrators, predecessors, successors, assigns, parent companies, subsidiaries, agents, associates, affiliates, divisions, holding

companies, employers, employees, consultants, independent contractors, insurers, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, investment bankers, underwriters, shareholders, lenders, auditors, investment advisors, legal representatives, successors in interest, companies, firms, trusts, and corporations, and any other representatives of any of these Persons and entities.

1.33. **“Releasing Parties”** means Plaintiffs and the Settlement Class and their respective present or past heirs, executors, estates, trustees, administrators, predecessors, successors, assigns, parent companies, subsidiaries, agents, associates, affiliates, divisions, holding companies, employers, employees, consultants, independent contractors, insurers, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, investment bankers, underwriters, shareholders, lenders, auditors, investment advisors, legal representatives, successors in interest, companies, firms, trusts, and corporations, and any other representatives of any of these Persons and entities.

1.34. **“Settlement Administration Expenses”** means the expenses reasonably incurred in administering the Settlement, including fees and costs of the Special Master, expenses relating to establishing, maintaining and administering the Escrow Account, expenses relating to the Settlement Administrator’s identifying the members of the Settlement Class, providing Notice, processing Claim Forms, and mailing checks for Approved Claims, as well as any expenses reasonably incurred in the sending of notice to the relevant governmental agencies pursuant to the Class Action Fairness Act of 2005 (28 U.S.C. § 1715) (“CAFA”), with all such expenses to be paid from the Settlement Fund.

1.35. **“Settlement Administrator”** means Kurtzman Carson Consultants d/b/a KCC, selected by the Plaintiffs and approved by the Court, that shall provide Notice to the Settlement

Class, and process and pay Approved Claims submitted by Settlement Class Members as set forth in this Agreement.

1.36. **“Settlement Class”** means the two classes certified by the Court, one for individuals that received cellular phone calls and another for those who received landline phone calls, each defined as:

All persons in the United States to whom (1) one or more telephone calls were made by, on behalf, or for the benefit of the Defendants, (2) purportedly offering a free cruise in exchange for taking an automated public opinion and/or political survey, (3) which delivered a message using a prerecorded or artificial voice; (4) between August 2011 and August 2012, (5) whose (i) telephone number appears in Defendants’ records of those calls and/or the records of their third party telephone carriers or the third party telephone carriers of their call centers or (ii) own records prove that they received the calls—such as their telephone records, bills, and/or recordings of the calls—and who submit an affidavit or claim form if necessary to describe the content of the call.

(Dkt. 241 at p. 31.)

Excluded from the Settlement Class are (1) any Judge or Magistrate presiding over this Action and members of their families; (2) Defendants, Defendants’ subsidiaries, parent companies, successors, predecessors, and any entity in which Defendants or their parents have a controlling interest and their current or former officers, directors, agents, attorneys and employees; (3) persons who properly execute and file a timely request for exclusion from the class; (4) the legal representatives, successors or assigns of any such excluded persons; and (5) counsel for all Parties and members of their families.

1.37. **“Settlement Class Member”** means a Person who falls within the definition of the Settlement Class as set forth above and who has not submitted a valid request for exclusion.

1.38. **“Settlement Fund”** means the cash fund that shall be established by Defendants in the amount of the sum of all Approved Claims made by Settlement Class Members,

Settlement Administration Expenses, any incentive award to the Class Representatives, and any Fee Award to Class Counsel, provided, however, that the amount shall in no event be less than fifty-six million dollars (\$56,000,000) (the “Floor”) and in no event more than seventy-six million dollars (\$76,000,000) (the “Ceiling”), plus all interest paid by the depository institution as a result of being deposited into the interest-bearing Escrow Account. The Settlement Fund shall be to be deposited into the Escrow Account, from which the Settlement Administrator shall pay all Approved Claims made by Settlement Class Members, Settlement Administration Expenses, any incentive award to the Class Representatives, and any Fee Award to Class Counsel. Payment into the Settlement Fund will be made in separate increments as follows: (a) ten million dollars (\$10,000,000) shall be paid within twenty-one (21) days after the entry of the Preliminary Approval Order, (b) an additional twenty million dollars (\$20,000,000) shall be paid within seven (7) days after the entry of the Final Judgment, (c) an additional twenty-six million dollars (\$26,000,000) shall be paid within twelve (12) months after the entry of Final Judgment, to be paid in four (4) equal quarterly installments, and (d) a final additional amount, if necessary, equal to the lesser of twenty million dollars (\$20,000,000) or \$500 multiplied by the number of calls resulting from Approved Claims, plus the Fee Award, Settlement Administration Expenses, and any incentive award to the Class Representatives, less the amounts paid pursuant to (a) through (c) of this Paragraph, due to be paid within twenty-four (24) months after the entry of Final Judgment, also to be paid in four (4) equal quarterly installments. To the extent Defendants fail to timely make any installment payment, Defendants agree that the full amount of the Settlement Fund shall be immediately due and payable (less any amounts previously deposited), with interest earned thereon at the rate of 9%, in accordance with 815 ILCS 205/4. The Settlement Fund shall be kept in the Escrow Account with permissions granted to the Settlement

Administrator to access said funds until such time as the above-listed payments are made. The Settlement Administrator shall be responsible for all tax filings with respect to any earnings on the Settlement Fund and the payment of all taxes that may be due on such earnings. The Settlement Fund Ceiling represents the total maximum extent of Defendants' monetary obligations under this Agreement. In no event shall Defendants' total monetary obligation with respect to this Agreement exceed the Ceiling or be less than the Floor, plus the interest paid by the depository institution as a result of being deposited into the interest-bearing Escrow Account.

1.39. **“Special Master”** means the Hon. Wayne R. Andersen of JAMS, or if Judge Andersen is not available, such other mutually agreed-upon neutral at JAMS in Chicago.

1.40. **“Unknown Claims”** means claims that could have been raised in the Action and that any or all of the Releasing Parties do not know or suspect to exist, which, if known by him or her, might affect his or her agreement to release the Released Parties or the Released Claims or might affect his or her decision to agree, object or not to object to the Settlement. Upon the Effective Date, the Releasing Parties shall be deemed to have, and shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of § 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Upon the Effective Date, the Releasing Parties also shall be deemed to have, and shall have, waived any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law, or the law of any jurisdiction outside of the United States, which is similar, comparable or equivalent to § 1542 of the California Civil Code. The Releasing Parties acknowledge that they may discover facts in addition to or different from

those that they now know or believe to be true with respect to the subject matter of this release, but that it is their intention to finally and forever settle and release the Released Claims, notwithstanding any Unknown Claims they may have, as that term is defined in this Paragraph.

2. SETTLEMENT RELIEF.

2.1. Subject to the terms and conditions of this Agreement, Defendants shall establish the Settlement Fund.

2.2. Payments to Settlement Class Members.

(a) Settlement Class Members shall have until the Claims Deadline to submit Claim Forms. Each Settlement Class Member will be presumed to have received three (3) calls. Settlement Class Members that received more than three (3) calls will be able to indicate the number of calls they received and will be eligible for payment on a per call basis. Defendants may challenge the number of calls claimed, but each Settlement Class Member that submits a completed Claim Form will have an Approved Claim for at least one (1) call.

(b) Each Settlement Class Member who submits an Approved Claim shall be entitled to a payment of \$500 per call, unless the total of such payments (plus payment of all Settlement Administration Expenses, any incentive award to the Class Representatives, and any Fee Award to Class Counsel) would exceed the \$76,000,000 Ceiling. In that case, each Settlement Class Member who submits an Approved Claim would be entitled, per call, to a *pro rata* share of the total Settlement Fund (after payment of all Settlement Administration Expenses, any incentive award to the Class Representatives, and any Fee Award to Class Counsel) based on the total number of calls resulting from Approved Claims. By way of example, if the total payments at \$500 per

call (plus payment of the Fee Award, incentive awards, and Settlement Administration Expenses) would be less than \$56,000,000, each Settlement Class Member who submits an Approved Claim will get a *pro rata* payment of more than \$500 per call up to a maximum of \$1,500 per call, so that the total payout is at least equal to the \$56,000,000 Floor. If the Settlement Fund is in between the Floor and Ceiling, then every Settlement Class Member with an Approved Claim will receive \$500 per call. Only when the Settlement Fund reaches the Ceiling will Settlement Class Members with an Approved Claim receive a *pro rata* share of the Settlement Fund after payment of the Fee Award, incentive awards, and Settlement Administration Expenses.

(c) The Settlement Administrator shall pay from the Settlement Fund all Approved Claims by check with said checks being sent via first-class U.S. mail to the Settlement Class Members who submitted all such Approved Claims. A first round of payments to all Settlement Class Members with Approved Claims shall be made within one-hundred eighty (180) days of the Effective Date. The second and final round of payments to all Settlement Class Members with Approved Claims shall be made within twenty-eight (28) days of the final payment into the Settlement Fund.

(d) The ratio of the first installment to the second installment shall be the same as the ratio of \$30 million to the total Settlement Fund minus \$30 million. For example, if the total Settlement Fund is \$56 million, each Settlement Class Member with an Approved Claim will receive 54% of their total share based on the number of valid calls received in the first installment, and 46% of their total share in the second installment. If the total Settlement Fund is \$76 million, each Settlement Class Member will receive 39% of their total share based on the number of valid calls received in the

first installment and 61% of their total share in the second installment. The Fee Award and Settlement Administration Expenses (other than the Settlement Administrator's costs of providing Notice) will be paid in two installments in the same way.

(e) All cash payments issued to Settlement Class Members via check will state on the face of the check that the check will expire and become null and void unless cashed within ninety (90) days after the date of issuance.

(f) Any un-cashed checks issued to Settlement Class Members during the first round of payments made in accordance with this Agreement, as well as any unclaimed funds remaining in the Settlement Fund after payment of all Approved Claims, all Settlement Administration Expenses, the Fee Award to Class Counsel, and the incentive awards to the Class Representatives shall be distributed to Settlement Class Members with Approved Claims in the second round of payments. Any un-cashed checks issued to Settlement Class Members during the second and final round of payments made in accordance with this Agreement, as well as any unclaimed funds remaining in the Settlement Fund after payment of all Approved Claims, all Settlement Administration Expenses, the Fee Award to Class Counsel, and the incentive awards to the Class Representatives shall be distributed to an appropriate *cy pres* recipient selected by the Special Master upon recommendation from counsel for the Parties and the Settlement Class Members by email to the Settlement Administrator as indicated in the Notice.

2.3 **Prospective Relief:** Defendants shall each perform annual internal audits of their procedures for ensuring that they will not make (a) telemarketing calls using an automatic telephone dialing system or an artificial or prerecorded voice to cellular telephones unless to the best of their knowledge, each call recipient has given prior express consent in writing to receive

such calls, and shall correct any deficiencies discovered through the audits in accordance with the law and (b) telemarketing calls using an artificial or prerecorded voice to residential telephones unless to the best of their knowledge, each call recipient has given prior express consent in writing to receive such calls, and shall correct any deficiencies discovered through the audits in accordance with the law. Defendants agree to institute these practices on the Effective Date and continue them for a period of two (2) years after the entry of Final Judgment. If there are changes in the law related to the above practices that occur during the two (2) years after the Final Judgment, Defendants' audits will address compliance with the new law(s) then in effect.

3. RELEASE

3.1 The obligations incurred pursuant to this Settlement Agreement shall be a full and final disposition of the Action and any and all Released Claims, as against all Released Parties.

3.2 Upon the Effective Date, the Releasing Parties, and each of them, shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever released, relinquished and discharged all Released Claims against each and every one of the Released Parties.

4. NOTICE TO THE CLASS.

4.1 Upon entry of the Preliminary Approval Order, the Settlement Administrator shall cause the Notice describing the Final Approval Hearing, the terms of the compromise embodied in this Settlement Agreement, and the Claim Forms to be disseminated to the Settlement Class as provided herein. Such notice shall comport with due process and Rule 23, the costs of which shall be Settlement Administration Expenses.

4.2 The Notice shall include:

- (a) *Class List*. As part of sending notice of class certification to the

Settlement Class, Plaintiffs provided the Settlement Administrator a list of approximately 900,000 “telephone number[s] [that] appear[] in Defendants’ records of those calls and/or the records of their third party telephone carriers or the third party telephone carriers of their call centers.” For numbers assigned to a cellular telephone, Class Counsel subpoenaed the major telephone carriers and obtained names and addresses where available. For those numbers determined to be landlines, the Settlement Administrator performed a “reverse look-up” to determine any mailing address(es) associated with those numbers. The Settlement Administrator shall update all addresses as necessary and obtain additional addresses if feasible through reasonable effort.

(b) *Direct Email Notice.* No later than the Notice Date, the Settlement Administrator shall send Notice via email substantially in the form attached as Exhibit C, along with an electronic link to the Claim Form included in Exhibit B, to all Settlement Class Members with a valid email address on the Class List or where it is obtainable with reasonable effort. If no valid email address exists or is obtainable with reasonable effort for a person in the Settlement Class or in the event that the transmission of any email notice results in a “bounce-back,” the Settlement Administrator shall send Notice via First Class U.S. Mail through a postcard notice and accompanying Claim Form with return postage pre-paid in the form attached as Exhibit B, to each physical address reasonably obtainable.

(c) *Direct Mail Notice.* No later than the Notice Date, the Settlement Administrator shall send Notice and accompanying Claim Form (with return postage pre-paid via postcard), substantially in the form attached as Exhibit B, via First Class Mail through a postcard to those Settlement Class Members who appear on the Class List with

a valid U.S. Mail address or to each physical address reasonably obtainable.

(d) *Settlement Website.* No later than the Notice Date, the Settlement Administrator will update the current certified class website located at URL www.FreeCruiseCallClassAction.net, which shall be made to include the ability to electronically file Claim Forms online. The Notice on the settlement website shall be substantially in the form of Exhibit D attached hereto.

(e) *Internet Publication Notice.* The Settlement Administrator will supplement the direct mail postcard notice with Internet banner ads, in the form of Exhibit E, which allows access to several thousand premium high quality websites, and 800Notes.com. These ads will run for one month, contain active hyperlinks to the Settlement Website, and are designed to generate 151 million *unique* impressions.

(f) *Print Publication Notice.* The Settlement Administrator will provide print publication notice by placing a summary publication notice in newspapers in the top ten metropolitan statistical areas, as well as in the leading consumer magazine. Specifically, a one-time eighth of a page summary publication notice will be placed in the *New York Daily News*, *Los Angeles Times*, *Chicago Tribune*, *Dallas Morning News*, *Philadelphia Inquirer*, *Miami Herald*, *Houston Chronicle*, *Washington Post*, *Atlanta Journal-Constitution*, and the *Boston Globe*. A one-time third of a page summary publication notice will be placed in *People*. The proposed summary publication notice is attached as Exhibit F.

(g) *CAFA Notice.* Pursuant to 28 U.S.C. § 1715, not later than ten (10) days after the Agreement is filed with the Court, Defendants shall cause to be served upon the Attorneys General of each U.S. State in which Settlement Class members reside, the

Attorney General of the United States, and other required government officials, notice of the proposed settlement as required by law.

4.3. The Persons requested to be excluded from the certified classes pursuant to the court-approved notice and are not members of the Settlement Classes are identified in Exhibit G attached hereto.

4.4. The Notice shall advise the Settlement Class of their rights under the Settlement, including the right to be excluded from, comment upon and/or object to the Settlement Agreement or its terms. The Notice shall specify that any objection to this Settlement Agreement, and any papers submitted in support of said objection, shall be received by the Court at the Final Approval Hearing, only if the Person making an objection shall, on or before the Objection/Exclusion Deadline approved by the Court and specified in the Notice, file notice of his or her intention to do so and at the same time (a) file copies of such papers he or she proposes to submit at the Final Approval Hearing with the Clerk of the Court, (b) file copies of such papers through the Court's CM/ECF system if the objection is from a Settlement Class Member represented by counsel, who also must file an appearance, and (c) send copies of such papers via mail, hand, or overnight delivery service to both Class Counsel and Defendants' Counsel.

4.5. Any member of the Settlement Class who intends to object to this Settlement Agreement must include his or her name and address, include all arguments, citations, and evidence supporting the objection (including copies of any documents relied on), state that he or she is a Settlement Class Member, provide the cellular and/or landline telephone number(s) on which he or she allegedly received calls with a prerecorded or artificial voice offering a free cruise in exchange for taking an automated public opinion and/or political survey, the name and contact information of any and all attorneys representing, advising, or in any way assisting the

objector in connection with the preparation or submission of the objection or who may profit from the pursuit of the objection, and a statement indicating whether the objector intends to appear at the Final Approval Hearing either personally or through counsel, who must file an appearance or seek *pro hac vice* admission, accompanied by the signature of the objecting Settlement Class Member. Any Settlement Class Member who fails to timely file a written objection with the Court and notice of his or her intent to appear at the Final Approval Hearing in accordance with the terms of this Paragraph and as detailed in the Notice, and at the same time provide copies to designated counsel for the Parties, shall not be permitted to object to this Settlement Agreement at the Final Approval Hearing, and shall be foreclosed from seeking any review of this Settlement Agreement by appeal or other means and shall be deemed to have waived his or her objections and be forever barred from making any such objections in the Action or any other action or proceeding.

4.6. A member of the Settlement Class may request to be excluded from the Settlement Class by sending a written request for exclusion to the Settlement Administrator postmarked on or before the Objection/Exclusion deadline, which must be personally signed by the Settlement Class Member seeking to be excluded from the Settlement Class, and include his or her name and address, the cellular and/or landline telephone number(s) on which he or she allegedly received calls with a prerecorded or artificial voice offering a free cruise in exchange for taking an automated public opinion and/or political survey, the caption for the Action (i.e., *Aranda et al v. Caribbean Cruise Line, Inc., et al.*, Case No. 12-cv-04069 (N.D. Ill.)) and a statement that he or she wishes to be excluded from the Settlement Class. A request to be excluded that does not include all of the foregoing information, that is sent to an address other than that designated in the Notice, or that is not postmarked within the time specified, shall be

invalid and the Persons serving such a request shall be deemed to remain members of the Settlement Class and shall be bound as Settlement Class Members by this Settlement Agreement, if approved. Any member of the Settlement Class who elects to be excluded shall not: (1) be bound by any orders or the Final Judgment; (2) be entitled to relief under this Settlement Agreement; (3) gain any rights by virtue of this Settlement Agreement; nor (4) be entitled to object to any aspect of this Settlement Agreement. “Mass” or “class” requests for exclusion shall not be allowed.

5. SETTLEMENT ADMINISTRATION.

5.1. The Settlement Administrator shall, under the supervision of the Court, administer the relief provided by this Settlement Agreement by processing Claim Forms in a rational, responsive, cost effective, and timely manner. The Settlement Administrator shall maintain reasonably detailed records of its activities under this Settlement Agreement. The Settlement Administrator shall maintain all such records as are required by applicable law in accordance with its normal business practices and such records will be made available to Class Counsel and Defendants’ Counsel upon request. The Settlement Administrator shall also provide reports and other information to the Court as the Court may require. The Settlement Administrator shall provide Class Counsel and Defendants’ Counsel with information concerning Notice, administration, and implementation of the Settlement Agreement. Should the Court request, the Parties, in conjunction with the Settlement Administrator, shall submit a timely report to the Court summarizing the work performed by the Settlement Administrator, including a report of all amounts paid to each Settlement Class Member on account of Approved Claims. Without limiting the foregoing, the Settlement Administrator shall:

- (a) Forward to Defendants’ Counsel, with copies to Class Counsel, all

documents and other materials received in connection with the administration of the Settlement Agreement within thirty (30) days after the date on which all Claim Forms have been finally approved or disallowed per the terms of the Settlement Agreement;

(b) Receive requests for exclusion and other requests from the Settlement Class and promptly provide a copy of such requests to Class Counsel and Defendants' Counsel upon receipt ("the Opt-Out List"). If the Settlement Administrator receives any exclusion forms or other requests from the Settlement Class after the Objection/Exclusion Deadline, the Settlement Administrator shall promptly provide copies thereof to Class Counsel and Defendants' Counsel;

(c) Provide weekly reports to Class Counsel and Defendants' Counsel, including without limitation, reports regarding the number of Claim Forms received, the number determined to be rejected, the number of Approved Claims, and the number of calls to be paid per Settlement Class Member; and

(d) Make available for inspection by Class Counsel or Defendants' Counsel the Claim Forms, any documentation or other evidence submitted in support thereof, and any correspondence received by the Settlement Administrator at any time upon reasonable notice.

5.2. The Settlement Administrator shall employ reasonable procedures to screen claims for abuse or fraud, including without limitation, by cross-referencing the information provided on the Claim Form against the Class List, and by reviewing the evidentiary proof submitted by Settlement Class Members. The Settlement Administrator shall reject a Claim Form, or any part of a claim for a payment reflected therein, where there is evidence of abuse or fraud. The Settlement Administrator shall also reject a Claim Form that does not contain all

requested information necessary to screen the claim for fraud or abuse, after giving the claimant a reasonable opportunity of no greater than twenty-one (21) days to provide any requested missing information. The Settlement Administrator shall notify the claimant regarding the missing information via email, telephone call or direct mail, whichever is the most practical based on the information provided in the Claim Form. The validation of all Claim Forms by the Settlement Administrator shall occur no later than fourteen (14) days after the Effective Date and the Settlement Administrator shall give notice of such validation to counsel on that date.

5.3. Defendants and the Class Representatives will have the right to challenge the number of calls received by each Settlement Class Member that are eligible for payment. All challenges will be presented to the Special Master who will make a binding determination as to the number of calls received by each Settlement Class Member entitled to receive payment on account of an Approved Claim. To effectuate such challenge, the party making the challenge must provide email notice to the Settlement Administrator, Special Master and opposing counsel informing them of the claim(s) that party seeks to challenge and the factual basis for that challenge within thirty (30) days of the Settlement Administrator's validation of all Claim Forms as an Approved Claims determination of the number of calls entitled to a *pro rata* payment, and notice of the validation. Challenges must be made to individual or designated groups of Claim Forms; so-called "blanket" or "mass" challenges to all Claim Forms without differentiation will not be allowed.

5.4. For Settlement Class Members that submit a Claim Form indicating that they received three (3) calls or fewer, the presumption of three (3) calls can be rebutted by Defendants' challenges. All other Settlement Class Members will have the ultimate burden if their Claim Form is challenged to demonstrate the number of calls, greater than one (1), that they

received.

5.5. In the event of a challenge, the Settlement Administrator shall notify each Settlement Class Member via email, telephone call or direct mail, whichever is the most practical based on the information provided in the Claim Form, that (i) the Settlement Class Member must within thirty (30) days either submit supplemental documentation to prove each call claimed or schedule a telephonic hearing with the Special Master where the Settlement Class Member must testify as to the basis for each separate call claimed, (ii) the Settlement Class Member has the burden of proving the specific number of calls received, and (iii) that the Settlement Class Member will still receive a payment on account of an Approved Claim regardless of the outcome of the challenge. Following the Claims Deadline, but in no event later than one hundred eighty (180) days after Final Judgment, the Special Master will make a determination regarding the claims under challenge, including the number of calls received by the Settlement Class Member (1) based on the information already submitted, and (2) by requiring additional information in the form of (i) either supplemental documentation to prove each call claimed or testimony before the Special Master as to the basis for each separate call claimed. The Special Master's determination regarding the claims under challenge shall be final and binding on the Parties. If the challenged Settlement Class Member does not timely submit the supplemental documentation or testify before the Special Master, the Special Master shall sustain the Defendants' challenge and the Settlement Class Member will have an Approved Claim for one (1) call. If the challenged Settlement Class Member does timely submit the supplemental documentation or testify before the Special Master, the Special Master will then, in his sole discretion, make a determination as to the number of calls for which the Settlement Class member can recover. To the extent the Special Master sustains Defendants' challenge, the

Settlement Class member will be permitted to recover for at least one (1) call.

5.6 The Special Master shall be entitled to payment of all fees incurred by him in connection with presiding over any challenges of the Parties (defined as Settlement Administration Expenses), from the Settlement Fund. Payment to the Special Master for all such fees shall be in accordance with the billing schedule designated by the Special Master.

5.7 In the exercise of their duties outlined in this Agreement, both the Settlement Administrator and the Special Master shall have the right to reasonably request additional information from the Parties or any Settlement Class Member.

5.8 Defendants and Defendants' Counsel shall have no liability or responsibility whatsoever for any acts, errors or omissions of the Settlement Administrator or for any investment in or distribution from the Escrow Account.

5.9 The Final Approval Hearing shall be set for a date no less than ninety (90) days after the Notice described in Paragraph 4.2(g) is disseminated.

6. TERMINATION OF SETTLEMENT.

6.1. **Termination.** Subject to Paragraph 9 below, the Class Representatives, on behalf of the Settlement Class, or Defendants, shall have the right to terminate this Settlement Agreement by providing written notice of the election to do so to all other Parties hereto within ten (10) days of any of the following events: (i) the Court's refusal to grant Preliminary Approval of this Agreement in any material respect; (ii) the Court's refusal to grant final approval of this Agreement in any material respect; (iii) the Court's refusal to enter the Final Judgment in this Action in any material respect; (iv) the date upon which the Final Judgment is modified or reversed in any material respect by the Court of Appeals or the Supreme Court; or (v) the date upon which an Alternative Judgment, as defined in Paragraph 9.1 of this Agreement, is modified

or reversed in any material respect by the Court of Appeals or the Supreme Court.

7. PRELIMINARY APPROVAL ORDER AND FINAL APPROVAL ORDER.

7.1. Promptly after the execution of this Settlement Agreement, Class Counsel shall submit this Agreement together with its Exhibits to the Court and shall move the Court for entry of a Preliminary Approval Order, which shall include, among other provisions, a request that the Court:

(a) preliminarily approve this Agreement for purposes of disseminating notice to the Settlement Class;

(b) approve the form and contents of the Settlement Class Notice and Claim Form for dissemination to the Settlement Class, as well as the method of its dissemination to members of the Settlement Class; and

(c) schedule a Final Approval Hearing to review comments and/or objections regarding this Agreement, to consider its fairness, reasonableness and adequacy, and the application for an award of attorneys' fees and reimbursement of expenses and to consider whether the Court shall issue a Final Judgment approving this Agreement, granting Class Counsel's application for the Fee Award and an incentive award to the Class Representatives, and dismissing the Action with prejudice.

7.2. After Notice to the Settlement Class is given, Class Counsel shall move the Court for entry of a Final Judgment, which shall include, among other provisions, a request that the Court:

(a) find that it has personal jurisdiction over all Settlement Class Members and subject matter jurisdiction to approve this Settlement Agreement, including all attached exhibits;

(b) approve the Settlement Agreement and the proposed settlement as fair, reasonable and adequate as to, and in the best interests of, the Settlement Class Members; direct the Parties and their counsel to implement and consummate the Settlement Agreement according to its terms and conditions; and declare the Settlement Agreement to be binding on, and have *res judicata* and preclusive effect in, all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiffs and all other Settlement Class Members and Releasing Parties;

(c) find that the Notice implemented pursuant to the Settlement Agreement (1) constitutes the best practicable notice under the circumstances, (2) constitutes notice that is reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action, their right to object to or exclude themselves from this Settlement Agreement and to appear at the Final Approval Hearing, (3) is reasonable and constitutes due, adequate and sufficient notice to all persons entitled to receive notice, and (4) meets all applicable requirements of the Federal Rules of Civil Procedure, the Due Process Clause of the United States Constitution and the rules of the Court;

(d) find that the Class Representatives and Class Counsel adequately represented the Settlement Class for purposes of entering into and implementing the Agreement;

(e) dismiss the Action on the merits and with prejudice, without fees or costs to any party except as provided in this Settlement Agreement;

(f) incorporate the Release set forth above, make the Release effective as of the date of the Final Judgment, and forever discharge the Released Parties as set forth

herein;

(g) authorize the Parties, without further approval from the Court, to agree to and adopt such amendments, modifications and expansions of the Settlement Agreement and its implementing documents (including all Exhibits to this Agreement) that (1) shall be consistent in all material respects with the Final Judgment, and (2) do not limit the rights of Settlement Class Members;

(h) without affecting the finality of the Final Judgment for purposes of appeal, retain jurisdiction as to all matters relating to administration, consummation, enforcement and interpretation of the Settlement Agreement and the Final Judgment, and for any other necessary purpose; and

(i) incorporate any other provisions, consistent with the material terms of this Agreement, as the Court deems necessary and just.

8. CLASS COUNSEL'S ATTORNEYS' FEES, REIMBURSEMENT OF EXPENSES AND INCENTIVE AWARD.

8.1. Defendants agree to pay to Class Counsel reasonable attorneys' fees and unreimbursed expenses incurred in the Action as the Fee Award. The amount of the Fee Award shall be determined by the Court based on petition from Class Counsel. Class Counsel has agreed, with no consideration from Defendants, to limit their request for attorneys' fees and unreimbursed costs to twenty-four million five hundred thousand dollars (\$24,500,000) (the "Maximum Fee Request"). Payment of the Fee Award shall be made from the Settlement Fund. Defendants may challenge the requested amount. Nothing in this Agreement shall require Class Counsel to seek the Maximum Fee Request.

8.2. Class Counsel shall be paid the Fee Award, in an amount determined by the Court, from the Settlement Fund on the same schedule and in the same proportions as the

Settlement Class Members that receive payments as outlined in Paragraph 2.2(d). Specifically, the ratio of the first installment to the second installment shall be the same as the ratio of \$30 million to the total Settlement Fund minus \$30 million. For example, if the total Settlement Fund is \$56 million, Class Counsel will receive 54% of the Fee Award in the first installment, and 46% of the Fee Award in the second installment. If the total Settlement Fund is \$76 million, Class Counsel will receive 39% of the Fee Award in the first installment and 61% of the Fee Award in the second installment. Payment of the Fee Award in each installment shall be made via wire transfer to an account designated by Class Counsel after providing necessary information for electronic transfer.

8.3. In addition to any payment to which they may be entitled under this Agreement on account of an Approved Claim, and in recognition of the time and effort they expended on behalf of the Settlement Class, subject to the Court's approval, the Class Representatives shall be paid from the Settlement Fund an incentive award in the total amount of ten thousand dollars (10,000) each. Should the Court award less than this amount, the difference in the amount sought and the amount ultimately awarded pursuant to this Paragraph shall remain in the Settlement Fund to be distributed to Settlement Class Members with Approved Claims.

8.4. The Class Representatives shall be paid the incentive award, as determined by the Court, from the Settlement Fund in the first installment payment. Payment of the incentive award to the Class Representatives shall be made via check to the Class Representatives, such checks to be sent care of Class Counsel.

9. CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL, CANCELLATION OR TERMINATION.

9.1. The Effective Date of this Settlement Agreement shall not occur unless and until each and every one of the following events occurs, and shall be the date upon which the last (in

time) of the following events occurs:

- (a) This Agreement has been signed by the Parties, Class Counsel and Defendant CCL's Counsel, Defendant VOMT's Counsel, and Defendant Berkley's Counsel;
- (b) The Court has entered the Preliminary Approval Order;
- (c) The Court has entered an order finally approving the Settlement Agreement, following notice to the Settlement Class and a Final Approval Hearing, as provided in the Federal Rules of Civil Procedure, and has entered the Final Judgment, or a judgment substantially consistent with this Agreement; and
- (d) The Final Judgment has become Final, as defined above, or, in the event that the Court enters an order and final judgment in a form other than that provided above ("Alternative Judgment") to which the Parties have consented, that Alternative Judgment has become Final.

9.2. If some or all of the conditions specified in Paragraph 9.1 are not met, or in the event that this Settlement Agreement is not approved by the Court, or the settlement set forth in this Agreement is terminated or fails to become effective in accordance with its terms, then this Settlement Agreement shall be canceled and terminated subject to Paragraph 9.3, unless Class Counsel and Defendants' Counsel mutually agree in writing to proceed with this Agreement. If any Party is in material breach of the terms hereof, any other Party, provided that it is in substantial compliance with the terms of this Agreement, may terminate this Agreement on notice to all other Parties. Notwithstanding anything herein, the Parties agree that the Court's decision as to the amount of the Fee Award to Class Counsel set forth above or the incentive award to the Class Representatives, regardless of the amounts awarded, shall not prevent the

Agreement from becoming effective, nor shall it be grounds for termination of the Agreement.

9.3. If this Agreement is terminated or fails to become effective for the reasons set forth in Paragraphs 6.1, 9.1, or 9.2 above, the Parties shall be restored to their respective positions in the Action as of the date of the signing of this Agreement. In such event, any Final Judgment or other order entered by the Court in accordance with the terms of this Agreement shall be treated as vacated, *nunc pro tunc*, and the Parties shall be returned to the *status quo ante* with respect to the Action as if this Agreement had never been entered into and, pursuant to Paragraph 10.4 below, this Agreement shall not be used for any purpose whatsoever against any of the Parties.

10. MISCELLANEOUS PROVISIONS.

10.1 The Parties: (1) acknowledge that it is their intent to consummate this Settlement Agreement; and (2) agree, subject to their fiduciary and other legal obligations, to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Agreement and to exercise their reasonable best efforts to accomplish the foregoing terms and conditions of this Agreement. Class Counsel and Defendants' Counsel agree to cooperate with one another in seeking entry of an order granting Preliminary Approval of this Agreement and the Final Judgment, and promptly to agree upon and execute all such other documentation as may be reasonably required to obtain final approval of the Agreement.

10.2 The Parties intend this Settlement Agreement to be a final and complete resolution of all disputes between them with respect to the Released Claims by Plaintiffs and the Settlement Class, and each or any of them, on the one hand, against the Released Parties, and each or any of the Released Parties, on the other hand. Accordingly, the Parties agree not to assert in any forum that the Action was brought by Plaintiffs or defended by Defendants, or each

or any of them, in bad faith or without a reasonable basis.

10.3 The Parties have relied upon the advice and representation of counsel, selected by them, concerning the claims hereby released. The Parties have read and understand fully this Agreement and have been fully advised as to the legal effect hereof by counsel of their own selection and intend to be legally bound by the same.

10.4 Whether the Effective Date occurs or this Settlement Agreement is terminated, neither this Agreement nor the settlement contained herein, nor any act performed or document executed pursuant to or in furtherance of this Agreement or the settlement:

(a) is, may be deemed, or shall be used, offered or received against the Released Parties, or each or any of them as an admission, concession or evidence of, the validity of any Released Claims, the truth of any fact alleged by Plaintiffs, the deficiency of any defense that has been or could have been asserted in the Action, the violation of any law or statute, the reasonableness of the settlement amount or the Fee Award, or of any alleged wrongdoing, liability, negligence, or fault of the Released Parties, or any of them;

(b) is, may be deemed, or shall be used, offered or received against any Defendant as, an admission, concession or evidence of any fault, misrepresentation or omission with respect to any statement or written document approved or made by the Released Parties, or any of them;

(c) is, may be deemed, or shall be used, offered or received against Plaintiffs or the Settlement Class, or each or any of them as an admission, concession or evidence of, the infirmity or strength of any claims asserted in the Action, the truth or falsity of any fact alleged by Defendants, or the availability or lack of availability of meritorious

defenses to the claims raised in the Action;

(d) is, may be deemed, or shall be used, offered or received against the Released Parties, or each or any of them as an admission or concession with respect to any liability, negligence, fault or wrongdoing as against any Released Parties, in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. However, the settlement, this Agreement, and any acts performed and/or documents executed in furtherance of or pursuant to this Agreement and/or settlement may be used in any proceedings as may be necessary to effectuate the provisions of this Agreement. Moreover, if this Settlement Agreement is approved by the Court, any party or any of the Released Parties may file this Settlement Agreement and/or the Final Judgment in any action that may be brought against such party or Parties in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion, or similar defense or counterclaim;

(e) is, may be deemed, or shall be construed against Plaintiffs and the Settlement Class, or each or any of them, or against the Released Parties, or each or any of them, as an admission or concession that the consideration to be given hereunder represents an amount equal to, less than or greater than that amount that could have or would have been recovered after trial; and

(f) is, may be deemed, or shall be construed as or received in evidence as an admission or concession against Plaintiffs and the Settlement Class, or each and any of them, or against the Released Parties, or each or any of them, that any of Plaintiffs' claims are with or without merit or that damages recoverable in the Action would have

exceeded or would have been less than any particular amount.

10.5 The headings used herein are used for the purpose of convenience only and are not meant to have legal effect.

10.6 The waiver by one Party of any breach of this Agreement by any other Party shall not be deemed as a waiver of any other prior or subsequent breaches of this Agreement.

10.7 All of the Exhibits to this Settlement Agreement are material and integral parts hereof and are fully incorporated herein by reference.

10.8 This Agreement and its Exhibits set forth the entire agreement and understanding of the Parties with respect to the matters set forth herein, and supersede all prior negotiations, agreements, arrangements and undertakings with respect to the matters set forth herein. No representations, warranties or inducements have been made to any party concerning this Settlement Agreement or its exhibits other than the representations, warranties and covenants contained and memorialized in such documents. This Agreement may be amended or modified only by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest.

10.9 Except as otherwise provided herein, each Party shall bear its own attorneys' fees and costs incurred in any way related to the Action.

10.10 Plaintiffs represent and warrant that they have not assigned any claim or right or interest relating to any of the Released Claims against the Released Parties to any other Person or Party and that he is fully entitled to release the same.

10.11 Each counsel or other Person executing this Settlement Agreement, any of its Exhibits, or any related settlement documents on behalf of any party hereto, hereby warrants and represents that such Person has the full authority to do so and has the authority to take

appropriate action required or permitted to be taken pursuant to the Agreement to effectuate its terms.

10.12 This Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. Signature by digital, facsimile, or in PDF format will constitute sufficient execution of this Agreement. A complete set of original executed counterparts shall be filed with the Court if the Court so requests.

10.13 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Agreement, and all Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the settlement embodied in this Agreement.

10.14 This Settlement Agreement shall be governed by and construed in accordance with the laws of the State of Illinois without reference to the conflicts of laws provisions thereof.

10.15 This Settlement Agreement is deemed to have been prepared by counsel for all Parties, as a result of arms'-length negotiations among the Parties. Whereas all Parties have contributed substantially and materially to the preparation of this Agreement, it shall not be construed more strictly against one party than another.

10.16 Where this Settlement Agreement requires notice to the Parties, such notice shall be sent to the undersigned counsel:

|

If to Plaintiffs' Counsel:

Eve-Lynn Rapp
Jay Edelson
Edelson PC
350 North LaSalle Street, Suite 1300
Chicago, Illinois 60654

If to Defendant Berkley's Counsel:

Brian P. O'Meara
Forde Law Offices LLP
111 West Washington St., 1100
Chicago, IL 60602

**If to Defendant CCL's Counsel &
Defendant VOMT's Counsel:**

Richard W. Epstein
Greenspoon Marder, P.A.
200 East Broward Blvd.
Suite 1800
Fort Lauderdale, FL 33301

[SIGNATURES APPEAR ON FOLLOWING PAGE.]

IN WITNESS WHEREOF, the Parties hereto have caused this Settlement Agreement to be executed, by their duly authorized attorneys.

On Behalf of Plaintiffs and the Settlement Class:

GERARDO ARANDA, individually and on behalf of the Settlement Class,

Dated: 9-26-2016

By: Gerardo Aranda

GRANT BIRCHMEIER, individually and on behalf of the Settlement Class,

Dated: _____

By: _____

STEPHEN PARKES, individually and on behalf of the Settlement Class,

Dated: _____

By: _____

REGINA STONE, individually and on behalf of the Settlement Class,

Dated: _____

By: _____

EDELSON PC

Dated: 09/26/2016

By: Jay Edelson

IN WITNESS WHEREOF, the Parties hereto have caused this Settlement Agreement to be executed, by their duly authorized attorneys.

On Behalf of Plaintiffs and the Settlement Class:

GERARDO ARANDA, individually and on behalf of the Settlement Class,

Dated: _____

By: _____

GRANT BIRCHMEIER, individually and on behalf of the Settlement Class,

Dated: 9-26-2016

By: 

STEPHEN PARKES, individually and on behalf of the Settlement Class,

Dated: _____

By: _____

REGINA STONE, individually and on behalf of the Settlement Class,

Dated: _____

By: _____

EDELSON PC

Dated: _____

By: _____

IN WITNESS WHEREOF, the Parties hereto have caused this Settlement Agreement to be executed, by their duly authorized attorneys.

On Behalf of Plaintiffs and the Settlement Class:

GERARDO ARANDA, individually and on behalf of the Settlement Class,

Dated: _____

By: _____

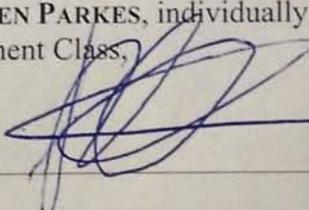
GRANT BIRCHMEIER, individually and on behalf of the Settlement Class,

Dated: _____

By: _____

STEPHEN PARKES, individually and on behalf of the Settlement Class,

Dated: 9/26/2016

By:  _____

REGINA STONE, individually and on behalf of the Settlement Class,

Dated: _____

By: _____

EDELSON PC

Dated: _____

By: _____

IN WITNESS WHEREOF, the Parties hereto have caused this Settlement Agreement to be executed, by their duly authorized attorneys.

On Behalf of Plaintiffs and the Settlement Class:

GERARDO ARANDA, individually and on behalf of the Settlement Class,

Dated: _____

By: _____

GRANT BIRCHMEIER, individually and on behalf of the Settlement Class,

Dated: _____

By: _____

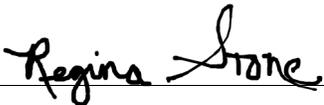
STEPHEN PARKES, individually and on behalf of the Settlement Class,

Dated: _____

By: _____

REGINA STONE, individually and on behalf of the Settlement Class,

Dated: 09/25/2016

By: 

EDELSON PC

Dated: _____

By: _____

LOEVY & LOEVY

Dated: 9/26/2016

By: Scott Rauscher

On Behalf of Defendant Caribbean Cruise Line, Inc.:

CARIBBEAN CRUISE LINE, INC.

Dated: _____

By: _____

Title: _____

GREENSPOON MARDER, P.A.

Dated: _____

By: _____

On Behalf of Defendant Vacation Ownership Marketing Tours, Inc.:

VACATION OWNERSHIP MARKETING TOURS, INC.

Dated: _____

By: _____

Title: _____

GREENSPOON MARDER, P.A.

Dated: _____

By: _____

EDELSON PC

Dated: _____

By: _____

LOEVY & LOEVY

Dated: _____

By: _____

On Behalf of Defendant Caribbean Cruise Line, Inc.:

CARIBBEAN CRUISE LINE, INC.

Dated: _____

By: _____

Title: _____

GREENSPOON MARDER, P.A.

Dated: _____

By: _____

On Behalf of Defendant Vacation Ownership Marketing Tours, Inc.:

VACATION OWNERSHIP MARKETING TOURS, INC.

Dated: _____

By: _____

Title: _____

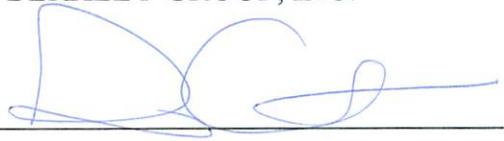
GREENSPOON MARDER, P.A.

Dated: _____

By: _____

Dated: September 26, 2016

THE BERKLEY GROUP, INC.

By: _____

Its: President_____

On Behalf of Defendant The Berkley Group, Inc.

FORDE LAW OFFICES LLP

Dated: September 26, 2016

By: 

EXHIBIT A

FREE CRUISE CALL SETTLEMENT CLAIM FORM

Instructions: Fill out the top section of this form, choose Option One or Option Two based on the number of calls you received, and sign where indicated. Because your telephone number is not included in Defendants' records, you are required to submit proof you received calls covered by the Settlement along with this claim form. Accepted proof may include a telephone bill showing that you received the call, a recording of the call, a caller ID record of the call, or a screenshot of the call.

<u>First Name</u>		<u>Last Name</u>	
<u>Street Address</u>			
<u>City</u>		<u>State</u>	<u>ZIP Code</u>
<u>Telephone Number(s) at Which Calls Were Received</u>			
<u>Current Telephone Number (If different)</u>		<u>Email Address</u>	

YOU MUST PROVIDE ALL OF THE INFORMATION ABOVE, PICK ONE OPTION, SUBMIT THE REQUIRED PROOF, AND SIGN THIS CLAIM FORM.

YOUR CLAIM FORM MUST BE POSTMARKED OR SUBMITTED ONLINE BY [CLAIMS DEADLINE], 2016.

Option One (three (3) calls or fewer): I affirm that I received three (3) or fewer calls on the telephone number listed above between August 2011 and August 2012 that used a prerecorded or robotic voice offering a free cruise in exchange for taking a public opinion and/or political survey. I have included the required proof that I received these calls.

OR

Option Two (more than three (3) calls): I affirm that I received _____ (insert number) of calls on the telephone number listed above between August 2011 and August 2012 that used a prerecorded or robotic voice offering a free cruise in exchange for taking a public opinion and/or political survey. I have included the required proof that I received these calls.

By submitting this Claim Form, selecting Option One or Option Two, and providing the accompanying proof, I declare, under penalty of perjury under the laws of the State in which this Affirmation is executed and the United States of America, that I believe I am a member of the Settlement Class, that the information provided above is true to the best of my knowledge, and the proof attached is true and accurate.

Signature: _____ Date (MM-DD-YY): ____ - ____ - ____

EXHIBIT B

LEGAL NOTICE

Birchmeier v. Caribbean Cruise Line, Inc. et al.,
Case No. 12-cv-4069 (N.D. Ill)

**If you received an automated call
between August 2011 and August 2012
offering a free cruise in exchange
for taking a political and/or public
opinion survey, a class action
settlement may affect your rights.
You may be entitled to
up to \$500 per call.**

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

See reverse for details.
For complete information, visit
www.FreeCruiseCallClassAction.net or call
[toll-free number].

XXX

Free Cruise Call Settlement
[admin address]

First-Class
Mail
US Postage
Paid
Permit #__

<<BARCODE>>
Postal Service: Please do not mark
barcode.
<<FIRST>><<LAST>>
<<CO>>
<<ADDR1>><<ADDR2>>
<<CITY>><<ST>><<ZIP>>
<<COUNTRY>>

A Settlement has been reached in a class action lawsuit claiming that Caribbean Cruise Line, Inc., Vacation Ownership Marketing Tours, Inc., and The Berkley Group, Inc. (collectively, "Defendants") violated a federal law called the Telephone Consumer Protection Act. Defendants deny any wrongdoing. The settlement doesn't decide who is right, but rather is a compromise to end the lawsuit and avoid the uncertainties and costs associated with a trial.

Why am I being contacted? Our records indicate that your phone number [xxx-xxx-xxxx] received calls, and therefore, that you are a "Settlement Class Member," which includes people that received a prerecorded or robotic voice telephone call between August 2011 and August 2012 that offered a free cruise in exchange for taking a public opinion and/or political survey. You may have received a postcard about this case before. The case has settled and you have a right to file a claim for a share of the Settlement Fund. More information about the calls and the Settlement is available online.

What can I get out of the settlement? If the Court approves the Settlement, Settlement Class Members who submit valid claims will receive equal shares per call received of the Settlement Fund that Defendants have agreed to create, after payment of expenses and fees. That Settlement Fund will be at least \$56,000,000 and at most \$76,000,000. The settlement also requires Defendants to take steps to ensure compliance with the TCPA.

How do I get my payment? Because records show you received a call covered by the lawsuit, you just need to complete and verify a short and simple Claim Form available on the reverse side of this postcard, or available at www.FreeCruiseCallClassAction.net. The Claim Form has two options. Select the first option if you received three (3) calls or less. You may later be asked to provide additional documents or information about your receiving more than one call. If you received more than three (3) calls, chose the second option and identify the number of calls you received. ***All Claim Forms must be received by [Claims Deadline].*** Visit www.FreeCruiseCallClassAction.net to find out more information about the timing for payment of claims.

What are my options? You can do nothing, submit a Claim Form, comment on or object to any of the Settlement terms, or exclude yourself from the Settlement. If you do nothing or submit a Claim Form, you won't be able to sue Defendants in a future lawsuit about the claims resolved in the Settlement. If you exclude yourself, you won't get a payment but you'll keep your right to sue Defendants on the issues the Settlement resolves. You must contact the Settlement Administrator by mail to exclude yourself. You can also object to the Settlement if you disagree with any of its terms. ***All Requests for Exclusion and Objections must be received by [exclusion/objection deadline].***

Who represents me? The Court has appointed lawyers from the firms Edelson PC and Loevy & Loevy to represent you as "Class Counsel." The lawyers will request to be paid from the Settlement Fund. You can hire your own lawyer, but you'll need to pay your own legal fees. Gerardo Aranda, Grant Birchmeier, Stephen Parkes, and Regina Stone—class members like you—have been appointed by the Court as the "Class Representatives."

When will the Court approve the settlement? The Court will hold a final approval hearing on [date] at [time] before Judge Matthew F. Kennelly in Courtroom 2103 of the Dirksen United States Courthouse, 219 S. Dearborn St., Chicago, 60604. The Court will hear objections, determine if the settlement is fair, and consider Class Counsel's request for fees and expenses of up to \$24,500,000 and an incentive awards which will be posted on the settlement website.

Visit www.FreeCruiseCallClassAction.net for complete information.

FREE CRUISE CALL SETTLEMENT CLAIM FORM

Instructions: Fill out the top section of this form, choose Option One or Option Two based on the number of calls you received, and sign where indicated. You may, if necessary, be required to provide documents or other proof that you received more than one call.

<u>First Name</u>		<u>Last Name</u>	
<u>Street Address</u>			
<u>City</u>		<u>State</u>	<u>Zip Code</u>
<u>Telephone Number(s) at Which Calls Were Received</u>			
<u>Current Telephone Number (if different)</u>		<u>Email Address</u>	

YOU MUST PROVIDE ALL OF THE INFORMATION ABOVE, PICK *ONE* OPTION, CHECK THE BOX, AND SIGN THIS CLAIM FORM. YOUR CLAIM FORM MUST BE POSTMARKED OR SUBMITTED ONLINE BY [CLAIMS DEADLINE], 2016.

Option One (three (3) calls or fewer): I affirm that I received three (3) or fewer calls on the telephone number listed above between August 2011 and August 2012 that used a prerecorded or robotic voice offering a free cruise in exchange for taking a public opinion and/or political survey.

OR

Option Two (more than three (3) calls): I affirm that I received _____ (insert number) of calls on the telephone number(s) listed above between August 2011 and August 2012 that used a prerecorded or robotic voice offering a free cruise in exchange for taking a public opinion and/or political survey.

By submitting this Claim Form and selecting Option One or Option Two, I declare, under penalty of perjury under the laws of the State in which this Affirmation is executed and the United States of America, that I believe I am a member of the Settlement Class and that the information provided above is true to the best of my knowledge.

Signature: _____ Date (MM-DD-YY): _____ - _____ - _____

<hr/> <hr/> <hr/>	<p>First-Class Mail US Postage Paid Permit #__</p>
<p>Free Cruise Call Settlement [admin address]</p>	

EXHIBIT C

To:

From: Settlement Administrator <donotreply@FreeCruiseCallClassAction.net>

Subject: Legal Notice: Free Cruise Telephone Call Class Action Settlement

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

Birchmeier v. Caribbean Cruise Line, Inc. et al., Case No. 12-cv-4069 (N.D. Ill)

If you received an automated call between August 2011 and August 2012 offering a free cruise in exchange for taking a political and/or public opinion survey, a class action settlement may affect your rights.

You may be entitled to up to \$500 per call.

A 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 claiming that Caribbean Cruise Line, Inc., Vacation Ownership Marketing Tours, Inc., and The Berkley Group, Inc. (collectively, “Defendants”) violated a federal law called the Telephone Consumer Protection Act (the “TCPA”). The lawsuit claims Defendants placed calls using or an artificial or prerecorded voice offering a free cruise in exchange for taking a public opinion and/or political survey. The settlement doesn’t decide who is right, but rather is a compromise to end the lawsuit and avoid the uncertainties and costs associated with a trial.

Why am I being contacted?

Our records indicate that your phone number [xxx-xxx-xxxx] received calls, and therefore, that you are a “Settlement Class Member,” which includes people that received a prerecorded or robotic voice telephone call between August 2011 and August 2012 that offered a free cruise in exchange for taking a public opinion and/or political survey. You may have received a postcard about this case before. The case has settled and you have a right to file a claim for a share of the Settlement Fund. More information about the calls and the Settlement is available at www.FreeCruiseCallClassAction.net.

What can I get out of the settlement?

If the Court approves the Settlement, Settlement Class Members who submit valid claims will receive equal shares per call received of the Settlement Fund that Defendants have agreed to create, after payment of expenses and fees. That Settlement Fund will be at least \$56,000,000 and at most \$76,000,000. The settlement also requires Defendants to take steps to ensure compliance with the TCPA.

How do I get my payment?

Because records show you received a call covered by the lawsuit, you just need to complete and verify a short and simple Claim Form by clicking [here](#). The Claim Form has two options. Select the first option if you received three (3) calls or less. If you received more than three (3) calls, chose the second option and identify the number of calls you received. You may later be asked to provide additional documents or information about your receiving more than one call. If you received more than three (3) calls, chose the second option and identify the number of calls you received. *All Claim Forms must be received by [Claims Deadline].* Visit www.FreeCruiseCallClassAction.net to find out more information about the timing for payment of claims.

What are my options?

You can do nothing, submit a Claim Form, comment on or object to any of the Settlement terms, or exclude yourself from the Settlement. If you do nothing or submit a Claim Form, you won’t be able to sue Defendants in a future lawsuit about the claims resolved in the Settlement. If you exclude yourself, you won’t get a payment but you’ll keep your right to sue Defendants on the issues the Settlement resolves. You must contact the Settlement Administrator by mail to exclude yourself. You can also object to the Settlement if you disagree with any of its terms. All Requests for Exclusion and Objections must be received by [exclusion/objection deadline].

Go to www.FreeCruiseCallClassAction.net for complete details about all of your rights and options and how to exercise them.

Who represents me?

The Court has appointed lawyers from the firms Edelson PC and Loevy & Loevy to represent you as “Class Counsel.” The lawyers will request to be paid from the Settlement Fund. You can hire your own lawyer, but you’ll need to pay your own legal fees. Gerardo Aranda, Grant Birchmeier, Stephen Parkes, and Regina Stone—class members like you—have been appointed by the Court as the “Class Representatives.”

When will the Court approve the settlement?

The Court will hold a final approval hearing on [date] at [time] before Judge Matthew F. Kennelly in Courtroom 2103 of the Dirksen United States Courthouse, 219 S. Dearborn St., Chicago, 60604. The Court will hear objections, determine if the settlement is fair, and consider Class Counsel’s request for fees and expenses of up to \$24,500,000 and an incentive awards which will be posted on www.FreeCruiseCallClassAction.net.

This notice summarizes the proposed Settlement. For the precise terms and conditions of the settlement, please see the Settlement Agreement available at www.FreeCruiseCallClassAction.net, contact Class Counsel at 1-866-354-3015, through the Court’s online electronic full case docket search at www.ecf.ilnd.uscourts.gov, or visit the office of the Clerk of the United States District Court for the Northern District of Illinois, Everett McKinley Dirksen United States Courthouse, 219 S. Dearborn St. Chicago, IL 60604, between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding Court holidays.

This message was intended for:
You were added to the system [DATE]
For more information click here. Update your preferences
[Unsubscribe](#) | [Unsubscribe via email](#)

EXHIBIT D

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

Birchmeier et al. v. Caribbean Cruise Line, Inc. et al., Case No. 12-cv-04069 (N.D. Ill.)

If you received an automated call between August 2011 and August 2012 offering a free cruise in exchange for taking a political and/or public opinion survey, a class action settlement may affect your rights. You may be entitled to up to \$500 per call.

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 claiming that Caribbean Cruise Line, Inc., Vacation Ownership Marketing Tours, Inc., and The Berkley Group, Inc. (collectively, “Defendants”) violated a federal law called the Telephone Consumer Protection Act (the “TCPA”). The lawsuit claims Defendants placed calls using or an artificial or prerecorded voice offering a free cruise in exchange for taking a public opinion and/or political survey. The settlement doesn’t decide who is right, but rather is a compromise to end the lawsuit and avoid the uncertainties and costs associated with a trial.
- You are included if you received an automated telephone call (i.e., a call containing a prerecorded message or that used a robotic voice) on a cellular or landline residential telephone line between August 1, 2011 and August 31, 2012 that offered a free cruise in exchange for taking a public opinion and/or political survey. The full Settlement Class definition is listed below. If you did not receive a postcard notice or your telephone number is not in Defendants’ records you may be required to produce documents or other proof in order to make a claim. If you have questions about how to obtain this documentation, you may call the lawyers in this case at the phone numbers listed in question 23 for assistance.
- If the Court approves the settlement, Settlement Class Members who submit valid claims will receive equal shares per call received of the Settlement Fund that Defendants have agreed to create, after payment of expenses and fees. That Settlement Fund will be at least \$56,000,000 and at most \$76,000,000. The settlement also requires Defendants to take steps to ensure compliance with the TCPA.
- Please read this notice carefully. Your legal rights are affected whether you act, or don’t act.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A CLAIM FORM	This is the only way to receive a payment.
EXCLUDE YOURSELF	You will receive no payment, but you will retain any rights you currently have to sue the Defendants about the issues the Settlement covers in this case.
OBJECT	Write to the Court explaining why you don’t like the Settlement.
ATTEND A HEARING	Ask to speak in Court about the fairness of the Settlement.
DO NOTHING	You will receive no payment under the Settlement and give up your rights to sue the Defendants about the issues covered by the Settlement in this case.

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

BASIC INFORMATION

1. What is this notice and why should I read it?

A Court authorized this notice to let you know about a proposed Settlement with the Defendants. You have legal rights and options that you may act on before the Court decides whether to approve the proposed Settlement. This notice explains the lawsuit, the Settlement, and your legal rights.

Judge Matthew F. Kennelly of the United States District Court for the Northern District of Illinois is overseeing this class action. The case is called *Birchmeier et al. v. Caribbean Cruise Line, Inc. et al.*, Case No. 12-cv-04069 (N.D. Ill.). The people who filed the lawsuit, Gerardo Aranda, Grant Birchmeier, Stephen Parkes, and Regina Stone, are the Plaintiffs. The companies they sued, Caribbean Cruise Line, Inc., Vacation Ownership Marketing Tours, Inc., and The Berkley Group, Inc., are called the Defendants.

2. What is a class action lawsuit?

A class action is a lawsuit in which one or more plaintiffs—in this case, Gerardo Aranda, Grant Birchmeier, Stephen Parkes, and Regina Stone—sue on behalf of a group of people who have similar claims. Together, this group is called a “Class” and consists of “Class Members.” In a class action, the court resolves the issues for all class members, except those who exclude themselves from the class. Earlier in the lawsuit the Court recognized that this case should be treated as a class action, and you may have received a prior notice about the case.

THE CLAIMS IN THE LAWSUIT AND THE SETTLEMENT

3. What is this lawsuit about?

This lawsuit claims that Defendants violated the TCPA by making automated survey calls offering a free cruise in exchange for taking a political and/or public opinion survey. The Plaintiffs allege that Defendants marketed timeshare and vacation properties through the calls. Many, but not all, of the surveys were from Political Surveys of America. If an individual was offered the opportunity to participate in the survey in exchange for a free cruise, after answering the survey questions, he or she then had the option of being transferred to a Caribbean Cruise Line representative.

Defendants deny these allegations and deny that the telephone calls violated the law. The court has not decided whether the Defendants did anything wrong. The Settlement is a compromise to end the lawsuit and avoid the uncertainties and costs associated with a trial. The Settlement is not an admission of wrongdoing by Defendants. More information about the lawsuit can be found in the “Court Documents” section of the settlement website at www.FreeCruiseCallClassAction.net.

4. What type of automated survey calls were allegedly made?

The lawsuit claims that between August 1, 2011 and August 31, 2012 calls were made to landline and cellular telephone numbers throughout the nation. The lawsuit claims that each call at issue in this lawsuit offered a free cruise in exchange for taking a political and/or public opinion survey. Many, but not all, of the calls mentioned that they were from Political Surveys of America. Plaintiffs allege that if a call offered a free cruise to take the survey, and an individual chose to answer the survey questions, they would be transferred to a Caribbean Cruise Line representative, who would provide additional information about the cruise and also attempt to upsell each person a more expensive vacation package that required the traveler to sit through a Berkley timeshare presentation. Click [here](#) to listen to an example of one of these calls or read a transcript.

5. Why is there a Settlement?

The Court has not decided whether the Plaintiffs or the Defendants should win this case. Instead, Plaintiffs and Defendants have agreed to a Settlement. That way, they can avoid the uncertainty and expense of a trial. The Class Representatives and their attorneys (“Class Counsel”) believe that the Settlement is in the best interests of the Class Members.

WHO’S INCLUDED IN THE SETTLEMENT?

6. How do I know if I am in the Settlement Class?

Prior to Settlement, the Court certified two Classes—a Class on behalf of individuals who received calls on their landline telephones and a Class of people who received calls on their cellular telephones—and decided that the Classes include: any person who received (1) one or more telephone calls made by, on behalf of, or for the benefit of the Defendants, (2) purportedly offering a free cruise in exchange for taking an automated public opinion and/or political survey, (3) which delivered a message using a prerecorded or artificial voice, (4) between August 2011 and August 2012, (5) and your (i) telephone number appears in Defendants’ records of those calls and/or the records of their third party telephone carriers or the third party telephone carriers of their call centers or (ii) your own records prove that you received the calls—such as your telephone records, bills, and/or recordings of the calls—and you submit an affidavit or claim form if necessary to describe the content of the call. The Settlement covers these same classes, which together is called the “Settlement Class” in the agreement.

You may be part of the Settlement Class if you received one or more of these calls and any of the following is also true:

- Your information appeared in Defendants’ records, in which case you would have likely received an email or postcard and claim form in the mail;
- Even if you did not receive an email or postcard in the mail about this Settlement, you may still be part of one of the Settlement Class if your number appears in Defendants’ records. Click [here](#) to see if your number appears in Defendants’ records; or
- You recall getting one of the automated calls described above and one of the numbers appearing [here](#) (**insert link to list of known phone numbers**) appears on your cell phone and/or landline telephone bills or records; or
- You recall getting one of the automated survey calls described above and you are able to prove that you received such a call, with some documentation, such as a telephone bill showing that you received the call, a recording of the call, a caller ID record of the call, or a screenshot of the call, or some other form of documentation evidencing your receipt of the call.

You may be able to obtain your telephone bill and/or records from your telephone carrier. If you have any questions about how to obtain this evidence, call the lawyers in this case at the phone numbers listed in question 23 for assistance.

Additionally, if you are still not sure whether you are included in the Classes, you can call the Settlement Administrator at [1-###-###-#####](tel:1-866-354-3015) or you can get free help by calling the lawyers in this case at the phone number listed in question 23.

THE SETTLEMENT BENEFITS

7. What does the Settlement provide?

Defendants have agreed to create a Settlement Fund of at least \$56,000,000 and at most \$76,000,000 from which Settlement Class Members who submit valid claims will receive a per call cash award after payment of

QUESTIONS? CALL 1-866-354-3015 TOLL FREE OR VISIT WWW.FREECRUISECALLCLASSACTION.NET

all cost of administering the settlement, any incentive awards to the Class Representatives, and any Fee Award. The exact amount Class Members will receive will depend on the total number of valid claims and covered calls in each claim received.

Each Class Member who submits a valid claim can get a payment of \$500 per call, unless the total of payments per call (plus payment of all costs and fees) would exceed \$76,000,000. In that case, each Settlement Class Member who submits an approved Claim would be entitled, per call, to a *pro rata* share of the total Settlement Fund (after payment of all costs and fees) based on the total number of calls resulting from valid claims. Or, if the total payments at \$500 per call (plus payment of all costs and fees) would be less than \$56,000,000, each Class Member who submits a valid claim can get a payment of more than \$500 per call, so that the total payout is at least \$56,000,000.

The Settlement provides two ways to get a payment:

Option One (three (3) calls or less): If you received three (3) calls or less, you should choose Option One on the Claim Form. You will be presumed to have received three calls and will receive payment for three calls. If your telephone number does not appear in Defendants' records, you will need to submit documents or other proof that you received the calls.

Option Two (more than three (3) calls): If you received more than three (3) calls, you should choose Option Two on the Claim Form. You will need to provide the number of calls you received on the Claim Form. You will be paid for each of the calls you received. If your telephone number does not appear in Defendants' records, you will need to submit documents or other proof that you received the calls.

The Settlement also requires the Defendants to take steps to ensure compliance with the TCPA.

HOW TO GET BENEFITS

8. How do I make a claim?

The Settlement creates a claims process with two options. Choose Option One if you got three (3) calls or less. Choose Option Two if you got more than three (3) calls. If you received notice through a postcard in the mail, there is a Claim Form attached that you can mail in. If you received notice through email, there is a link to the Claim form in that email, which will direct you to submit a claim on-line. All other Settlement Class Member must submit a claim form on-line by clicking [here](#) or requesting a paper Claim Form from the Settlement Administrator.

The Claim Form requires you to provide basic contact information and affirm that between August 2011 and August 2012 you received a call that used a prerecorded or robotic voice offering a free cruise in exchange for taking a public opinion and/or political survey. If your telephone number is not in Defendants' records, regardless of which option you choose you will need to provide documentation, including a telephone bill showing that you received the call, a recording of the call, a caller ID record of the call, a screenshot of the call, or some other form of documentation evidencing your receipt of the call.

The parties will have the opportunity to challenge the number of calls received by each Settlement Class Member. All challenges will be presented to a Special Master (a retired federal judge), who may contact you about your claim and will decide the number of calls received by each Settlement Class Member. You may be asked to provide additional documents or information about your receiving more than one call. However, each Settlement Class Member will be entitled to receive a guaranteed payment based on one call even if the challenge is successful.

9. When will I get my payment?

The hearing to consider the fairness of the Settlement is scheduled for **[Final Approval Hearing Date]**. If the Court approves the Settlement, eligible Class Members whose claims were approved by the Settlement Administrator will receive their per call payment in two roughly equal installments. The first payment will be made within seven (7) months after the entry of an order finally approving the Settlement and the second payment will be made up to twenty-five (25) months later. Should the Defendants go out of business, your second payment may be reduced in whole or in part. The Fee Award and Settlement Administration Expenses will be paid in two installments in the same way.

All checks will expire and become void 90 days after they are issued. Any un-cashed checks issued to Settlement Class Members during the second round of payments, as well as any unclaimed funds remaining in the Settlement Fund after payment of all Approved Claims, all Settlement Administration Expenses, the Fee Award to Class Counsel, and the incentive awards to the Class Representatives shall be distributed to an appropriate *cy pres* recipient selected by the Special Master upon recommendations from Settlement Class Members. To recommend a *cy pres* recipient, please email the Settlement Administrator at **[insert settlement admin email]**.

THE LAWYERS REPRESENTING YOU

10. Do I have a lawyer in this case?

The Court has appointed lawyers from the firms Edelson PC and Loevy & Loevy to represent you as “Class Counsel.” The lawyers will request to be paid from the Settlement Fund. Gerardo Aranda, Grant Birchmeier, Stephen Parkes, and Regina Stone have been appointed by the Court as the “Class Representatives.” They are Class Members like you. Class Counsel can be reached by calling 1-866-354-3015.

11. Should I get my own lawyer?

You don’t need to hire your own lawyer because Class Counsel is working on your behalf. But if you want your own lawyer, you will have to pay for that lawyer. For example, you can ask your lawyer to appear in Court for you if you want someone other than Class Counsel to represent you.

12. How will the lawyers be paid?

Class Counsel will ask the Court for attorneys’ fees and expenses of up to \$24,500,000 and will also request an award of \$10,000 for each of the Class Representatives, to be paid from the Settlement Fund. The Court will determine the proper amount of any attorneys’ fees and expenses to award Class Counsel and the proper amount of any awards to the Class Representatives. The Court may award less than the amounts requested.

YOUR RIGHTS AND OPTIONS

13. What happens if I do nothing at all?

If you do nothing, you will receive no payment under the Settlement, you will be in the Settlement Class, and if the Court approves the Settlement, you will also be bound by all orders and judgments of the Court. Unless you exclude yourself, you won’t be able to start a lawsuit or be part of any other lawsuit against the Defendants for the claims or legal issues being resolved by this Settlement.

14. What happens if I ask to be excluded?

If you exclude yourself from the Settlement, you will receive no payment under the Settlement. However, you will not be in the Settlement Class. You will keep your right to start your own lawsuit against Defendants for the same legal claims made in this lawsuit. You will not be legally bound by the Court's judgments related to the Settlement Class and the Defendants in this class action.

15. How do I ask to be excluded?

You can ask to be excluded from the Settlement. To do so, you must send a letter stating that you want to be excluded from the Settlement in *Birchmeier et al. v. Caribbean Cruise Line, Inc. et al.*, Case No. 12-cv-04069. Your letter must also include (1) your name and address, (2) the telephone number at which you received the telephone calls at issue, (3) a statement that you wish to be excluded from the Class, (4) the caption for this case, and (5) your signature. You must mail your exclusion request no later than **[objection / exclusion deadline]** to:

Caribbean Cruise Line Class Action Administrator
P.O. Box 0000
City, ST 00000-0000

You can't exclude yourself on the phone or by email.

16. If I don't exclude myself, can I sue the Defendants for the same thing later?

No. Unless you exclude yourself, you give up any right to sue the Defendants for the claims being resolved by this Settlement.

17. If I exclude myself, can I get anything from this Settlement?

No. If you exclude yourself, do not submit a Claim Form to ask for a payment.

18. How do I object to the Settlement?

If you do not exclude yourself from the Class, you can object to the Settlement if you don't like any part of it. You can give reasons why you think the Court should deny approval by filing an objection. To object, you must file a letter or brief with the Court stating that you object to the Settlement in *Birchmeier et al. v. Caribbean Cruise Line, Inc. et al.*, Case No. 12-cv-04069 no later than **[objection / exclusion deadline]**. Your objection should be sent to the United States District Court for the Northern District of Illinois at the following address:

Clerk of the United States District Court for the Northern District of Illinois
Everett McKinley Dirksen United States Courthouse
219 S. Dearborn St.
Chicago, IL 60604

If you are represented by a lawyer, the lawyer must file your objection on CM/ECF.

The objection must be in writing and include the case name *Birchmeier et al. v. Caribbean Cruise Line, Inc. et al.*, Case No. 12-cv-04069. Your objection must be personally signed and include the following information: (1) your name and current address, (2) the specific grounds for your objection, (3) all arguments, citations, and evidence supporting your objection, including copies of any documents you intend to rely on, (4) a statement that you are a Class Member, (5) the telephone number(s) at which you received the call(s) at issue, (6) the name and contact information of any and all attorneys representing you, advising, or in any way assisting you in connection with the preparation or submission of your objection or who may profit from the pursuit of your

objection, and (7) a statement indicating whether you (or your counsel) intend to appear at the Final Fairness Hearing. If you are represented by a lawyer, he or she must file an appearance or seek *pro hac vice* admission to practice before the Court.

In addition to filing your objection with the Court, you must send copies of your objection and any supporting documents to both Class Counsel and Defendants' lawyers at the addresses listed below:

Class Counsel	Defense Counsel
Eve-Lynn J. Rapp Jay Edelson Edelson PC 350 North LaSalle Street Suite 1300 Chicago, Illinois 60654	Richard W. Epstein Greenspoon Marder, P.A. 200 East Broward Blvd. Suite 1800 Fort Lauderdale, Florida 33301 Brian P. O'Meara Forde Law Offices LLP 111 West Washington St., 1100 Chicago, Illinois 60602

Class Counsel will file with the Court and post on the settlement website its request for attorneys' fees and incentive award on **[date 2 weeks before objection deadline]**.

19. What's the difference between objecting and excluding myself from the Settlement?

Objecting simply means telling the Court that you don't like something about the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself from the Settlement Class 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 case no longer affects you.

THE COURT'S FAIRNESS HEARING

20. When and where will the Court hold a hearing on the fairness of the Settlement?

The Court will hold the final fairness hearing at **[time] on [date]** before the Honorable Matthew F. Kennelly in Courtroom 2103 of the Everett McKinley Dirksen United States Courthouse, 219 S. Dearborn St., Chicago, 60604. The purpose of the hearing is for the Court to determine whether the Settlement is fair, reasonable, and adequate, and in the best interests of the Class. At the hearing, the Court will hear any objections and arguments concerning the fairness of the proposed Settlement, including those related to the amount requested by Class Counsel for attorneys' fees and expenses and the incentive award to the Class Representatives.

Note: The date and time of the fairness hearing are subject to change by Court Order. Any changes will be posted at the settlement website, www.FreeCruiseCallClassAction.net or through the Court's online docket search at www.ecf.ilnd.uscourts.gov.

21. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. But you are welcome to come to the hearing at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as your written objection was filed or mailed on time and meets the other criteria described in the Settlement, the Court will consider it. You may also pay a lawyer to attend, but you don't have to.

22. May I speak at the hearing?

Yes. If you do not exclude yourself from the Settlement Class, you may ask the Court for permission to speak at the hearing concerning any part of the proposed Settlement. If you filed an objection (*see* question 18 above) and intend to appear at the hearing, you must state your intention to do so in your objection.

GETTING MORE INFORMATION

23. Where can I get additional information?

This notice summarizes the proposed Settlement. For the precise terms and conditions of the settlement, please see the Settlement Agreement available at www.FreeCruiseCallClassAction.net, contact Class Counsel at 1-866-354-3015, through the Court's online electronic full case docket search at www.ecf.ilnd.uscourts.gov, or visit the office of the Clerk of the United States District Court for the Northern District of Illinois, Everett McKinley Dirksen United States Courthouse, 219 S. Dearborn St. Chicago, IL 60604, between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding Court holidays.

**PLEASE DO NOT CONTACT THE COURT, THE JUDGE, OR THE DEFENDANTS
WITH QUESTIONS ABOUT THE SETTLEMENT OR CLAIMS PROCESS.**

EXHIBIT E

Internet Ad Notices

728 x 90

If you received an automated call between August 2011 and August 2012 offering a free cruise in exchange for taking a political and/or public opinion survey, a class action settlement may affect your rights. You may be entitled to up to \$500 per call.



To learn more, click here:
www.FreeCruiseCallClassAction.net

160 x 600

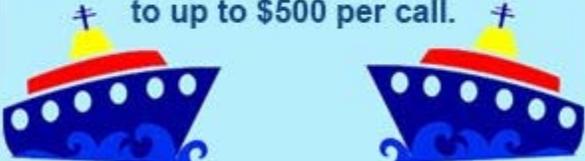
If you received an automated call between August 2011 and August 2012 offering a free cruise in exchange for taking a political and/or public opinion survey, a class action settlement may affect your rights. You may be entitled to up to \$500 per call.



To learn more, click here:
www.FreeCruiseCallClassAction.net

350 x 250

If you received an automated call between August 2011 and August 2012 offering a free cruise in exchange for taking a political and/or public opinion survey, a class action settlement may affect your rights. You may be entitled to up to \$500 per call.



To learn more, click here:
www.FreeCruiseCallClassAction.net

The complex block is a rectangular advertisement with a light blue background and a thin black border. It contains text at the top, two stylized cruise ship icons in the middle, and a call to action at the bottom. The ships are blue with white polka dots on their hulls, red funnels, and yellow lights on top. The text is in a dark blue, sans-serif font.

EXHIBIT F

If you received an automated call between August 2011 and August 2012 offering a free cruise in exchange for taking a political and/or public opinion survey, a class action settlement may affect your rights. You may be entitled to up to \$500 per call.

COURT AUTHORIZED NOTICE OF CLASS ACTION

A Settlement has been reached in a class action lawsuit claiming that Caribbean Cruise Line, Inc., Vacation Ownership Marketing Tours, Inc., and The Berkley Group, Inc. (collectively, "Defendants") violated a federal law called the Telephone Consumer Protection Act. Defendants deny any wrongdoing. The settlement doesn't decide who is right, but rather is a compromise to end the lawsuit and avoid the uncertainties and costs associated with a trial.

Am I part of the Settlement? You may be a Settlement Class Member if you received a prerecorded or robotic voice telephone call between August 2011 and August 2012 that offered a free cruise in exchange for taking a public opinion and/or political survey. You may have received notice about this case before. The case has settled and you have a right to file a claim for a share of the Settlement Fund. More information about the calls and the Settlement is available online. More information, including the full class definition, is in the detailed Long Form Website Notice at www.FreeCruiseCallClassAction.net.

What can I get out the settlement? If the Court approves the Settlement, Settlement Class Members who submit valid claims will receive equal shares per call received of the Settlement Fund that Defendants have agreed to create, after payment of expenses and fees. That Settlement Fund will be at least \$56,000,000 and at most \$76,000,000. The settlement also requires Defendants to take steps to ensure compliance with the TCPA. If you are included, you need to complete a Claim Form available at www.FreeCruiseCallClassAction.net. ***All Claim Forms must be received by [Claims Deadline].***

What are my rights & options? You can do nothing, submit a Claim Form, comment on or object to any of the Settlement terms, or exclude yourself from the Settlement. If you do nothing or submit a Claim Form, you won't be able to sue Defendants in a future lawsuit about the claims resolved in the Settlement. If you exclude yourself, you won't get a payment but you'll keep your right to sue Defendants on the issues the Settlement resolves. You must contact the Settlement Administrator by mail to exclude yourself. You can also object to the Settlement if you disagree with any of its terms. ***All Requests for Exclusion and Objections must be received by [exclusion/objection deadline].***

Who represents me? The Court has appointed lawyers from the firms Edelson PC and Loevy & Loevy to represent you as "Class Counsel." The lawyers will request to be paid from the Settlement Fund. You can hire your own lawyer, but you'll need to pay your own legal fees. Gerardo Aranda, Grant Birchmeier, Stephen Parkes, and Regina Stone—class members like you—have been appointed by the Court as the "Class Representatives."

When will the Court approve the settlement? The Court will hold a final approval hearing on [date] at [time] before Judge Matthew F. Kennelly in Courtroom 2103 of the Dirksen United States Courthouse, 219 S. Dearborn St., Chicago, Illinois 60604. The Court will hear objections, determine if the settlement is fair, and consider Class Counsel's request for fees and expenses of up to \$24,500,000 and incentive awards which will be posted on the settlement website.

How do I get more information? This Notice is only a summary of the lawsuit. For more information including the full notice and to file a claim form, go to www.FreeCruiseCallClassAction.net, contact the claims administrator at 1-888-882-0365 or Caribbean Cruise Line Class Action Administrator, P.O. Box 30184, College Station, TX 77842-3184, or call Class Counsel at 1-866-354-3015.

By Order of the Court Dated: _____

EXHIBIT G

Birchmeier et al. v. Caribbean Cruise Line, Inc. et al., No. 12-cv-04069 (N.D. Ill.)

Opt-Out/Exclusion List

1. Shedrick, C. (Buffalo, New York)
2. Montgomery, R. (Sierra Vista, Arizona)
3. Gigandet, V. (Cincinnati, Ohio)
4. Defillipo, A. (Dover, Delaware)
5. Stahr, T. (St. Louis, Missouri)
6. Wooten, J. (Houston, Texas)
7. Dryer, L. (Spring Valley, California)
8. Callow-Soles, B. (Deming, New Mexico)
9. Li, L. (Fort Collins, Colorado)
10. Sudholt, R. (Aurora, Illinois)
11. Busch, M. (Thousand Oaks, California)
12. Fountain, D. (Martinsville, Virginia)
13. Albrecht, L. (Berryton, Kansas)
14. Rieman, A. (Charleston, West Virginia)
15. Dunkel, L. (Modesto, California)
16. Anderson, R. (Valley Mills, North Carolina)
17. Defillipo, S. (Maggie Valley, North Carolina)
18. Yang, J. (Jersey City, New Jersey)
19. Layritz, K. (San Diego, California)
20. Marques, N. (Westport, Massachusetts)
21. Colness, J. (Aurora, Colorado)