

OFFICIAL COURT-APPROVED LEGAL NOTICE

Darrell Rogers, et al. v. Vivint Solar, Inc., et al.

United States District Court for the District of Columbia, Case No. 1:18-cv-01567

If you received one or more calls between July 1, 2014 and November 8, 2019 relating to the marketing of Vivint Solar’s energy products and services, you could receive a cash payment from a class action lawsuit.

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 about whether third parties marketed solar energy products and services on behalf of Vivint Solar and placed telephone calls to individuals without prior consent in violation of the Telephone Consumer Protection Act (“TCPA”).
- Those included in the Settlement who file valid Claim Forms will be eligible to receive a payment from the Settlement Fund, which is \$975,000.00 total. If the Court grants final approval of the Settlement, this fund will be used to pay valid claims, class administration costs, attorneys’ fees, and an incentive award to the named Plaintiff.
- 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 BY FEBRUARY 21, 2020	The only way to receive a payment from the Settlement Fund. By participating in the Settlement, you will be bound by the terms of the Settlement Agreement and will give up certain rights.
EXCLUDE YOURSELF BY MARCH 9, 2020	You will receive no benefits, but you will retain any rights you currently have to sue Vivint about the issues in this case. Your request to exclude yourself must be postmarked by March 9, 2020, and must comply with the requirements set forth in this Notice.
OBJECT BY MARCH 30, 2020	Write to the Court and explain why you do not like the Settlement. Your objection must be postmarked by March 30, 2020, and must comply with the requirements set forth in this Notice.
ATTEND A HEARING ON MAY 12, 2020	The Court has set a hearing to hear any objections and determine if the settlement is fair and should be approved. You may appear at the hearing, either yourself or through an attorney hired by you, but you are not required to do so.
DO NOTHING	You will not get a share of the Settlement Fund and will give up your rights to sue Vivint about the issues in this case.

These rights and options – and the deadlines to exercise them – are explained in this Notice. For complete details, view the Settlement Agreement at www.VivintSolarTCPASettlement.com or call 1-844-264-8228.

BASIC INFORMATION

1. What is this notice?

A Court directed that this notice be posted because you have a right to know about the proposed Settlement of this class action lawsuit and about all of your options before the Court decides whether to grant final approval of the Settlement. This Notice summarizes the lawsuit, the proposed Settlement, and your legal rights.

The case is known as *Darrell Rogers, et al. v. Vivint Solar, Inc., et al.*, Case No. 1:18-cv-01567, filed in the United States District Court for the District of Columbia. Mr. Rogers, the person who sued, is called the Plaintiff/Settlement Class Representative. The company he sued, Vivint Solar, Inc. (and affiliates) are called the Defendants.

For the precise terms and conditions of the Settlement, please see the Settlement Agreement available at www.VivintSolarTCPASettlement.com, by contacting the Settlement Administrator at 1-844-264-8228, contacting class counsel Shawn Heller at Social Justice Law Collective, 974 Howard Avenue, Dunedin, FL 34698, (202) 709-5744, or Richard Bennett at Bennett & Bennett, 1200 Anastasia Ave., Office #360, Coral Gables, FL 33134, (305) 444-5925, or by accessing the Court docket in this case in person at the Clerk's office at the following address: U.S. District Court for the District of Columbia, 333 Constitution Ave. NW, Washington, DC 20001.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.

2. What is a class action lawsuit?

In a class action, a "Representative Plaintiff" (in this case, Darrell Rogers) sues on behalf of a group of people who have similar claims. In this case and under this Settlement, these people are together called a "Settlement Class" or "Settlement Class Members." In a class action, the court resolves the issues for all Settlement Class Members, except for those who exclude themselves from the Settlement Class.

THE CLAIMS IN THE LAWSUIT AND THE SETTLEMENT

3. What is this lawsuit about?

The lawsuit alleges that the Defendants violated the Telephone Consumer Protection Act by using an automatic telephone dialing system ("ATDS"), an artificial voice, or a prerecorded voice when they (or a third party on Defendants' behalf) called Plaintiff and the putative class members in order to promote their solar energy business without obtaining prior express written consent; or by calling Plaintiff and other putative class members that are registered with the National Do-Not-Call Registry at least 30 days prior to being contacted more than once within a 12-month period to promote their solar energy business without obtaining the requisite do-not-call permission.

Defendants deny the allegations and maintain that they have strong, meritorious defenses to the claims. The Settlement is not an admission of, and does not establish any, wrongdoing by Defendants. The Court has not determined who is right. Rather, the Parties have agreed to settle the lawsuit to avoid the uncertainties and expenses associated with ongoing litigation.

More information about the complaint in the lawsuit and the Defendant's answer can be found in the "Court Documents" section of the Settlement website at www.VivintSolarTCPASettlement.com.

4. Why is there a Settlement??

The Court has not decided whether the Representative Plaintiff or Defendants should win this case. Instead, both sides agreed to a Settlement. The Representative Plaintiff and his attorneys (“Class Counsel”) believe that the Settlement is in the best interests of the Settlement Class Members, because Settlement Class Members will get compensation now rather than, if at all, years from now, following litigation.

WHO’S INCLUDED IN THE SETTLEMENT?

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

The Court decided that this Settlement includes a Class of all persons within the United States who, between July 1, 2014 and November 8, 2019, had their telephone numbers called by third parties that marketed solar energy products and services on behalf of, or for the benefit of, Defendants, where:

- (1) The third party initiated a call using an artificial voice, or a prerecorded voice, to (i) advertise the commercial availability or quality of any property, goods, or services; or encourage the purchase or rental of property, goods, or services; (ii) where such persons’ and entities’ telephone numbers were assigned to a cellular phone service or residential line; and (iii) where the third party failed to obtain Prior Express Written Consent from those persons and entities called; or
- (2) The third party initiated a call using an ATDS to (i) advertise the commercial availability or quality of any property, goods, or services; or encourage the purchase or rental of property, goods, or services; (ii) where such persons’ and entities’ telephone numbers were assigned to a cellular phone service; and (iii) where the third party failed to obtain Prior Express Written Consent from those persons and entities called; or
- (3) The third party initiated more than one call within a 12-month period (i) to persons and entities who were registered with the National Do-Not-Call Registry for at least 30 days prior to being called; (ii) encouraging the purchase or rental of property, goods, or services; (iii) where such persons’ and entities’ telephone numbers were assigned to a cellular phone service; and (iv) where the third party failed to obtain Requisite Do-Not-Call Permission from those persons and entities called.

Excluded from the Settlement Class are Defendants, any parent, subsidiary, affiliate or controlled person of Defendants, as well as the officers, directors, agents, servants or employees of Defendants and the immediate family members of such persons, the named counsel in this litigation, and any member of their office and/or firm.

Everyone who fits this description, who is not excluded as per the above, is a member of the Settlement Class.

Certain Class Members may have received a call from someone identifying themselves as being from “Smart Home Solar,” followed by a call or home visit from a Vivint Solar salesperson after providing their contact information.

THE SETTLEMENT BENEFITS

6. What does the Settlement provide?

As part of the Settlement, Defendant has agreed to create a Settlement Fund of Nine Hundred Seventy-Five Thousand Dollars (\$975,000.00). The Settlement Fund will be used to pay all valid claims, costs of administering the Settlement, attorneys' fees and costs, and an incentive payment to the Representative Plaintiff.

Under the Settlement Agreement, Settlement Class Members must request a payment by submitting a valid Claim Form (including providing all of the information requested in the Claim Form) either by mail or online by February 21, 2020. Further details are below.

HOW TO GET BENEFITS

7. How do I make a claim?

The Settlement creates a claims process. You can get the Claim Form on this website, www.VivintSolarTCPASettlement.com, by clicking [here](#), or by calling 1-844-264-8228 to request that a Claim Form be mailed to you. The Claim Form may be submitted online [here](#) or by U.S. Mail sent to **Vivint Solar TCPA Settlement Administrator**, P.O. Box 43512, Providence, RI 02940-3512. If you submit a valid Claim Form and your claim is approved, you will receive a payment from the Settlement. Only one claim may be submitted per person, and each person may receive only one payment. If you choose to be paid by electronic payment, your Claim Form must be submitted online at the website address above.

The Claim Form requires you to provide your name, address, current telephone number, and the telephone number at which you received the call(s). You must sign the Claim Form to certify that you are a member of the Settlement Class and provide all the requested information.

All Claim Forms must be properly completed and submitted online (or postmarked if mailed) by February 21, 2020.

8. How much will my payment be?

Each member of the Settlement Class who submits a valid, timely Claim Form will receive a *pro rata* share of the Settlement Fund, meaning an equal distribution of all funds remaining in the Settlement Fund, after payments are made to Class Counsel, the Named Representative, and the Settlement Administrator. Your share of the Settlement will depend on the number of Claim Forms that Class Members submit and other factors. Class Counsel estimates you will receive between approximately \$40.00 and \$100.00, but this is only an estimate.

You may receive your settlement payment via either electronic payment or U.S. Mail. If you choose to be paid by electronic payment, your Claim Form must be submitted online at the website address above. If you wish to receive payment by check, a paper check will be sent to the postal address you submit on the Claim Form. Checks may be deposited into a bank account or cashed at a bank by the expiration date on the check (180 days after the issuance date stated on the check); after a check expires, it may no longer be deposited or cashed.

9. When will I get my payment?

The hearing to consider the final fairness of the Settlement is scheduled for May 12, 2020. If the Court approves the Settlement, and after any appeals process is completed, payment will be sent to eligible Settlement Class Members whose claims were approved by the Settlement Administrator. If final approval of the Settlement is granted, payments will be issued no later than 30 days after any timely appeals have been resolved and the Settlement is final. Please be patient.

THE LAWYERS REPRESENTING YOU

10. Do I have a lawyer in this case?

Yes, the Court has appointed lawyers Shawn Heller of the Social Justice Law Collective and Richard Bennett and Peter Bennett of the Bennett & Bennett law firm as the attorneys to represent you and other Settlement Class Members. These attorneys are called “Class Counsel.” Contact information for Class Counsel is as follows:

Shawn A. Heller, Esq.
shawn@sjlawcollective.com
Social Justice Law Collective, PL
974 Howard Ave.
Dunedin, Florida 34698
Tel: (202) 709-5744

Richard Bennett
Richardbennett27@gmail.com
Bennett & Bennett
1200 Anastasia Ave., Office #360
Coral Gables, Florida 33134
Tel: (305) 444-5925

11. Should I get my own lawyer?

You do not need to hire your own lawyer. Class Counsel is working on your behalf. However, if you want your own lawyer, you will have to pay that lawyer. For example, you can ask your lawyer to appear in Court for you, at your own expense, if you want someone other than Class Counsel to represent you.

12. How will the lawyers be paid?

Subject to final approval by the Court and pursuant to the Parties’ Agreement, Plaintiff has requested that the Court award the Representative Plaintiff \$20,000.00 from the Settlement Fund as compensation for his role as Class Representative, and has requested attorneys’ fees equal to one-third of the Settlement Fund (\$325,000.00), subject to final approval by the Court.

YOUR RIGHTS AND OPTIONS

13. What happens if I do nothing?

If you do nothing, you will receive no payment under the Settlement, you will remain in the Settlement Class, and if the Court approves the Settlement, you will also be bound by all orders and judgments of the Court. Also, 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 being resolved by this Settlement.

By doing nothing, you will be releasing Defendants from any future claim brought by you relating to this Settlement. Unless you exclude yourself, you are “releasing” the claims, regardless of whether you submit a Claim Form or not.

14. What happens if I ask to be excluded?

If you do not want to participate in this Settlement, or you want to keep the right to sue or continue to sue Defendants on your own, then you must take steps to opt out of the Settlement. This is called “excluding yourself” or “opting out” of the Settlement.

If you exclude yourself from the Settlement, you cannot receive any benefits as a result of the Settlement. You will keep your right to bring your own separate lawsuit against the Defendants for the claims resolved in this Settlement. You will not be legally bound by the Court’s judgments related to the Settlement Class 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 clearly stating that you want to be excluded from the Settlement in *Darrell Rogers, et al. v. Vivint Solar, Inc., et al.*, No. 1:18-cv-01567. Your letter must also include your name, address, your current phone number, the phone number that you contend you received the call(s) on, and your signature. You must mail your exclusion request postmarked no later than March 9, 2020 to:

Vivint Solar TCPA Settlement Administrator
P.O. Box 43512
Providence, RI 02940-3512

You cannot exclude yourself on the phone or via email.

The Court will exclude from the Settlement Class any Settlement Class Member who timely requests exclusion.

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 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, you may not submit a Claim Form to ask for a payment. You will no longer be eligible to receive a benefit from the Settlement.

18. How do I object to the Settlement?

If you are a Settlement Class Member and you do not exclude yourself from the Settlement Class, you can object to the Settlement if you do not like any part of it. You must give reasons why you think the Court should deny approval by filing an objection. You cannot ask the Court to order a larger or different settlement; the Court can only approve or deny the Settlement. If the Court denies approval, no settlement payments will be sent out, and the lawsuit will continue. If that is what you want to happen, you must object in writing. The Court will consider your views. Your objection and supporting papers must include:

1. A caption or title that identifies it as “Objection to Class Settlement in *Darrell Rogers, et al. v. Vivint Solar, Inc., et al.*, No. 1:18-cv-01567”;
2. Your full name, address, and telephone number;
3. The name, address, and telephone number of any attorney representing you with respect to the objection;
4. A statement of whether the objection applies only to the objector, to a specific subset of the class, or to the entire class;
5. The specific factual basis and legal grounds for the objection, including any documents sufficient to establish the basis for your standing as a Settlement Class Member, including the date(s) and phone number(s) at which you received the call(s) covered by this Settlement; and
6. The case name, case number, and court for any prior class action lawsuit in which you and your attorney (if applicable) have objected to a proposed class action settlement.

Your written objection must be signed, dated and postmarked no later than March 30, 2020. You must mail your objection to the Court, Class Counsel, and Defense Counsel to the following addresses:

Court

Clerk of Court
US District Court for the District of Columbia
33 Constitution Ave NW
Washington DC 20001

Class Counsel

Shawn A. Heller
Social Justice Law Collective, PL
974 Howard Ave.
Dunedin, FL 34698

Defense Counsel

Steven A. Augustino
Kelley Drye & Warren LLP
3050 K Street NW, Ste 400
Washington DC 20007

If, in addition to submitting a written objection to the Settlement, you wish to appear and be heard at the Final Approval Hearing on the fairness of the Settlement, you must file by April 13, 2020 a motion to intervene, any additional memoranda regarding your objection, or a notice of intention to appear with the Court and list the name, address, and telephone number of the attorney, if any, who will appear on your behalf.

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

Objecting simply means telling the Court that you do not like something about the Settlement. You can object only if you stay in the Settlement Class (i.e., you do not exclude yourself from the Settlement). Excluding yourself from the Settlement Class is telling the Court that you do not 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 FINAL APPROVAL HEARING

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

A Final Approval Hearing has been set for May 12, 2020 at 10:00 a.m. at the United States District Court for the District of Columbia, 333 Constitution Ave. NW, Courtroom 2, Washington, DC 20001. At the hearing, the Court will hear any objections and arguments concerning the fairness of the proposed Settlement, including the final payments to Class Members, administration costs, and requests for attorneys' fees and an incentive award to the named Plaintiff. The Court will issue its decision after the hearing. We do not know how long it will take for the Court to decide.

Note: The date and time of the Final Approval Hearing are subject to change by Court Order, but any changes will be posted at the Settlement website, www.VivintSolarTCPASettlement.com. If, however, you timely object to the Settlement and advise the Court that you intend to appear and speak at the hearing, you will receive a notice of any change in the date of such hearing.

21. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have that are directed to the Settlement Class, but you are welcome to come at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as your written objection was mailed or filed on time and meets the other criteria described in this Notice, the Court will consider it. You may also pay another lawyer to attend, but you do not have to. 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 by asking to speak about your objection, filed by following the instructions above in section 18.

GETTING MORE INFORMATION

22. 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.VivintSolarTCPASettlement.com, by contacting the Settlement Administrator at 1-844-264-8228, by contacting Class Counsel Shawn Heller at Social Justice Law Collective, 974 Howard Ave., Dunedin, FL 34698, (202) 709-5744 or Richard Bennett at Bennett & Bennett, 1200 Anastasia Ave., #360, Coral Gables, FL 33134, (305) 444-5925 or by accessing the Court docket in this case in person at the Clerk's office at 333 Constitution Ave. NW, Washington, DC 20001.

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