

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

Michael Sheean, *on behalf of himself and* ) Case No: 2:18-cv-11532-GCS-RSW  
*others similarly situated,* )  
 )  
Plaintiff, ) Hon. George Caram Steeh  
 )  
v. )  
 )  
Convergent Outsourcing, Inc. )  
 )  
Defendant. )  
\_\_\_\_\_ )

**WEBSITE Q & A NOTICE**

**This is a notice of a settlement of a class action lawsuit.  
This is not a notice of a lawsuit against you.**

**If you received an automated or artificial or prerecorded call on your cellular telephone from Convergent Outsourcing, Inc. (“Convergent”) from November 11, 2016 through February 25, 2019, and you were not the person Convergent was trying to reach, or you instructed Convergent to stop placing calls to your cellular telephone number but received at least one additional call from Convergent, you may be entitled to compensation as a result of the settlement in the class action lawsuit captioned:**

*Sheean v. Convergent Outsourcing, Inc.*, No. 2:18-cv-11532 (E.D. Mich.)

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

**Please read this notice carefully.  
It explains your rights and options to participate in a class action settlement.**

- A consumer sued Convergent alleging, among other things, that Convergent made calls to cellular telephone numbers of consumers (1) who were not the persons that Convergent was attempting to reach, or (2) after Convergent was told to stop calling those consumers’ cellular telephone numbers, in violation of the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227.
- A settlement will result in a \$3.71 million fund to fully settle and release claims of persons to whom Convergent placed, or caused to be placed, a call, by using an automatic telephone dialing system or an artificial or prerecorded voice, from November 11, 2016 through February 25, 2019, either (i) directed to a number assigned to a cellular telephone service, but not assigned to the intended recipient of Convergent’s calls, or (ii) directed to a number assigned to a cellular telephone service, to which Convergent was previously instructed to stop placing calls.
- The settlement fund will be used to pay settlement amounts to class members who elect to participate, after deducting the costs of settlement notice and administration, attorneys’ fees, costs, and expenses, and an incentive award to the consumer who sued Convergent.
- Your legal rights are affected, and you now have a choice to make:

<b>SUBMIT A TIMELY CLAIM FORM</b>	If you submit a valid claim form by September 23, 2019, you will receive a share of the TCPA settlement fund after expenses are deducted, and you will release TCPA claims you may have against Convergent related to this case.
<b>DO NOTHING</b>	If you do nothing, you will <u>not</u> receive a share of the TCPA settlement fund, but if you are a TCPA class member you will release TCPA claims you may have against Convergent related to this case.
<b>EXCLUDE YOURSELF</b>	If you exclude yourself from the settlement, you will <u>not</u> receive a share of the TCPA settlement fund, and you will <u>not</u> release any TCPA claims you have against Convergent. The deadline for excluding yourself is September 23, 2019.
<b>OBJECT</b>	Write to the Court about why you do not like the settlement. The deadline to object is September 23, 2019.

### **Why is this notice available?**

This is a notice of a proposed settlement in a class action lawsuit. The settlement would resolve a portion of the lawsuit Michael Sheean filed against Convergent. Please read this notice carefully. It explains the applicable portion of the lawsuit, the settlement, and your legal rights, including the process for receiving a settlement check, excluding yourself from the settlement, or objecting to the settlement.

### **What is this lawsuit about?**

Mr. Sheean filed this lawsuit against Convergent, alleging, in part, that Convergent violated the TCPA, when it called consumers on their cellular telephones, via an automatic telephone dialing system or with an artificial or prerecorded voice, who were not the intended recipients of Convergent’s calls, or who previously instructed Convergent to stop placing calls to their cellular telephone numbers. Convergent denies the allegations, denies that it used an automatic telephone dialing system to place calls to TCPA class members, and denies that it violated the TCPA. The Court did not decide who is right or wrong. The parties have agreed to a settlement.

### **Why is this a class action?**

In a class action, one or more people called “class representatives” file a lawsuit on behalf of people who have similar claims. All of these people together are a “class” or “class members.” The Court accordingly resolves claims for all class members, except for those who exclude themselves from the class.

### **Why is there a settlement?**

Mr. Sheean, on the one hand, and Convergent, on the other, have agreed to settle the lawsuit to avoid the time, risk, and expense associated with it, and to achieve a final resolution of the disputed claims. The proposed settlement was reached after Mr. Sheean and Convergent attended mediation with retired Judge Diane Welsh. Under the settlement, TCPA class members will obtain a payment in settlement of the TCPA claims Mr. Sheean raised in the lawsuit. Mr. Sheean and his attorneys think the settlement is fair and reasonable.

### **How do you know if your claims are included in the settlement?**

This settlement resolves claims on behalf of the following TCPA class:

*TCPA Class:* All persons throughout the United States (1) to whom Convergent Outsourcing, Inc. placed, or caused to be placed, a call, (2) by using an automatic telephone dialing system or an artificial or prerecorded voice, (3) from November 11, 2016 through February 25, 2019, (4) either (i) directed to a number assigned to a cellular telephone service, but not assigned to the intended recipient of Convergent Outsourcing, Inc.’s calls, or (ii) directed to a number assigned

to a cellular telephone service, to which Convergent Outsourcing, Inc. was previously instructed to stop placing calls or informed that the number was a wrong number.

There are 349,744 members of the TCPA class.

### **What does the settlement provide?**

Convergent will establish a settlement fund in the amount of \$3.71 million to compensate members of the TCPA class. Out of the settlement fund will be paid:

- a. Settlement compensation to TCPA class members;
- b. Notice and administration costs not to exceed \$400,000;
- c. An award of attorneys' fees not to exceed one-third of the settlement fund, subject to the Court's approval;
- d. Costs and expenses incurred litigating the TCPA claims in this matter not to exceed \$12,500, subject to the Court's approval; and
- e. An incentive award to Mr. Sheean not to exceed \$5,000, subject to the Court's approval.

Each TCPA class member who submits a timely and valid claim form will be entitled, subject to the provisions of the settlement agreement, to his or her equal share of the \$3.71 million settlement fund as it exists after deducting:

- a. Notice and administration costs;
- b. An award of attorneys' fees;
- c. Costs and expenses incurred litigating the TCPA claims in this matter; and
- d. An incentive award to Mr. Sheean.

It is estimated that each participating TCPA class member will receive between \$40 and \$120. The actual amount each participating TCPA class member will receive may be more or less depending on the number of TCPA class members who submit timely, valid claims.

### **How can you get a payment?**

You must mail a valid claim form to the Sheean v. Convergent Outsourcing, Inc. TCPA Settlement Administrator, P.O. Box 43495, Providence, RI 02940-3495 postmarked by September 23, 2019. Or you must submit a valid claim through [www.SheeanTCPASettlement.com](http://www.SheeanTCPASettlement.com) by September 23, 2019.

### **When will you be paid?**

If the Court grants final approval of the settlement, settlement checks will be mailed to TCPA class members who timely mailed or submitted valid claim forms no later than 30 days after the judgment in the lawsuit becomes final. If there is an appeal of the settlement, payment may be delayed.

### **What rights are you giving up in this settlement?**

If you fall within the TCPA class, and unless you exclude yourself from the settlement, you will give up your right to sue or continue a lawsuit against Convergent over the released TCPA claims. Giving up your legal claims is called a release. Unless you formally exclude yourself from the settlement, you will release your TCPA claims against Convergent.

For more information on the release, released parties, and released claims, you may obtain a copy of the class action settlement agreement on the settlement website, [www.SheeanTCPASettlement.com](http://www.SheeanTCPASettlement.com) or from the Clerk of the United States District Court for the Eastern District of Michigan.

### **How can you exclude yourself from the settlement?**

You may exclude yourself from the settlement, in which case you will not receive a payment. If you wish to exclude yourself from the settlement, you must mail a written request for exclusion to the Settlement Administrator at the following address, postmarked by **September 23, 2019**:

**Sheean v. Convergent Outsourcing, Inc. TCPA Settlement Administrator**

ATTN: EXCLUSION REQUEST

P.O. Box 43495

Providence, RI 02940-3495

You must include in your request for exclusion your:

- a. Full name;
- b. Address;
- c. Telephone number called by Convergent demonstrating that you are a member of the TCPA class; and
- d. A clear and unambiguous statement that you wish to be excluded from the settlement, such as “I request to be excluded from the settlement in the Sheean v. Convergent Outsourcing, Inc. action.”

You must sign the request personally. If any person signs on your behalf, that person must attach a copy of the power of attorney authorizing that signature.

### **When and where will the Court decide whether to approve the settlement?**

The Court will hold a final fairness hearing on **November 14, 2019, at 2:30 p.m.** The hearing will take place in the United States District Court for the Eastern District of Michigan, Theodore Levin U.S. Courthouse, 231 W. Lafayette Blvd., Detroit, MI 48226. At the final fairness hearing, the Court will consider whether the settlement is fair, reasonable, and adequate and, if so, whether final approval of the settlement should be granted. The Court will hear objections to the settlement, if any. The Court may make a decision at that time, postpone a decision, or continue the hearing.

### **Do you have to attend the hearing?**

No, there is no requirement that you attend the hearing. However, you are welcome to attend the hearing at your own expense. You cannot speak at the hearing if you have excluded yourself from the class settlement because the settlement no longer affects your legal rights.

### **What if you want to object to the settlement?**

If you do not exclude yourself from the settlement, you can object to the TCPA settlement, or any part of it, if you do not believe it is fair, reasonable, and adequate. If you wish to object, you must mail a written notice of objection, postmarked by **September 23, 2019**, to class counsel, Convergent’s attorneys, and to the Court, at the following addresses:

Class Counsel:

Aaron D. Radbil  
Greenwald Davidson Radbil PLLC  
401 Congress Ave. Ste. 1540  
Austin, TX 78701

Convergent’s Counsel:

Nabil G. Foster  
Hinshaw & Culbertson LLP  
151 North Franklin Street Suite 2500  
Chicago, IL 60606

Court:

U.S. District Court for  
Eastern District of Michigan  
Theodore Levin U.S. Courthouse  
231 W. Lafayette Blvd.  
Detroit, MI 48226

You must include in your objection your:

- a. Full name;
- b. Address;
- c. Telephone number called by Convergent to demonstrate that you are a member of the TCPA class;
- d. Statement that you were not the intended recipient of Convergent's calls to your cellular telephone, or that you instructed Convergent to stop placing calls to your cellular telephone number before receiving Convergent's calls;
- e. Identification of any documents to show that you are a member of the TCPA class or which you desire the Court to consider;
- f. A statement of your specific objection(s);
- g. A description of the facts underlying your objection(s);
- h. The grounds for your objection(s);
- i. A list of all witnesses that you intend to call by live testimony, deposition testimony, or affidavit or declaration testimony;
- j. A list of exhibits that you intend to present; and
- k. A statement noting whether you intend to appear at the fairness hearing.

#### **By when must you enter an appearance?**

Any TCPA class member who objects to the settlement and wishes to enter an appearance must do so by **September 23, 2019**. To enter an appearance, you must file with the Clerk of the Court a written notice of your appearance and you must serve a copy of that notice, by U.S. mail or hand-delivery, upon class counsel and Convergent's attorneys, at the addresses set forth below.

#### **What if you do nothing?**

If you do nothing and the Court approves the settlement agreement, you will not receive a share of the settlement fund, but you will release any TCPA claim you have against Convergent related to the allegations in this case. Unless you exclude yourself from the settlement, you will not be able to sue or continue a lawsuit against Convergent over the released TCPA claims.

#### **What will happen if the Court does not approve the settlement?**

If the Court does not finally approve the settlement or if it finally approves the settlement and the approval is reversed on appeal, or if the settlement does not become final for some other reason, you will receive no benefits from this settlement and the lawsuit will continue.

#### **Who are Mr. Sheean's attorneys?**

Mr. Sheean's attorneys are:

Aaron D. Radbil  
Greenwald Davidson Radbil PLLC  
401 Congress Avenue, Suite 1540  
Austin, TX 78701

Michael L. Greenwald  
James L. Davidson  
Greenwald Davidson Radbil PLLC  
7061 N. Federal Highway, Suite A-230  
Boca Raton, FL 33487

The Court has appointed Mr. Sheean's attorneys to act as class counsel. You do not have to pay class counsel. If you want to be represented by your own lawyer, and have that lawyer appear in Court for you in this case, you must hire one at your own expense.

### **Who are Convergent's attorneys?**

Convergent's attorneys are:

Nabil G. Foster  
Hinshaw & Culbertson LLP  
151 North Franklin Street, Suite 2500  
Chicago, IL 60606

Bethany S. Sweeny  
Varnum LLP  
39500 High Pointe Blvd., Ste. 350  
Novi, Michigan 48375

### **Before what Court is this matter pending?**

Mr. Sheean filed his class action lawsuit in the following Court:

U.S. District Court for the Eastern District of Michigan  
Theodore Levin U.S. Courthouse  
231 W. Lafayette Blvd.  
Detroit, MI 48226

### **Where can you get additional information?**

This notice is only a summary of the settlement. All documents filed with the Court, including the full class action settlement agreement, may be reviewed or copied at the United States District Court for the Eastern District of Michigan. In addition, pertinent case materials, including the settlement agreement, are available at the settlement web site, [www.SheeanTCPASettlement.com](http://www.SheeanTCPASettlement.com).

If you would like additional information about this matter, please contact:

**Sheean v. Convergent Outsourcing, Inc. TCPA Settlement Administrator**  
**P.O. Box 43495**  
**Providence, RI 02940-3495**  
**Telephone: 1-844-796-7585**

Please do not call the Judge about this case. Neither the Judge, nor the Clerk of Court, will be able to give you advice about this case. Furthermore, neither Convergent nor Convergent's attorneys represent you, and they cannot give you legal advice.