

*Leung et al. v. XPO Logistics, Inc.*  
USDC, Northern District of Illinois, Eastern Division

Case No. 15-cv-03877

**If you received a post-delivery survey call from XPO Logistics, Inc. regarding an IKEA delivery, you may be entitled to benefits under a class action settlement.**

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

- A proposed settlement will provide a total of \$7,000,000 (the “Settlement Fund”) to fully settle and release claims of persons whose cellular telephone numbers have been identified in the call data produced in this litigation bearing the litigation production numbers XPOLG024550 and XPOLG024553 where XPO or its subsidiary placed a pre-recorded post-delivery survey call after May 1, 2011 relating to an IKEA delivery (the “Settlement Class”). Persons not identified in the call data are not class members.
- Plaintiff alleges that these telephone calls violated the federal Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (the “TCPA”). XPO denies Plaintiff’s allegations and denies any wrongdoing whatsoever. The Court has not ruled on the merits of Plaintiff’s claims or XPO’s defenses. By entering into the settlement, XPO has not conceded the truth or validity of any of the claims against it.
- The Settlement Fund shall be used to pay all amounts related to the settlement, including awards to Settlement Class members who submit a valid and timely claim form to receive payment (“Claim Form”), attorneys’ fees and costs to attorneys representing Plaintiff and the Settlement Class (“Class Counsel”), any service award for Plaintiff and the costs of notice and administration of the settlement. Class Counsel estimates that Settlement Class members who timely submit a valid Claim Form will receive between \$131 and \$263 depending on the number of valid claims received. This is an estimate only. The final cash payment amount will depend on the total number of valid claims submitted by Settlement Class Members. As approved by the Court, monies remaining in the Settlement Fund after these payments are made will be distributed to the National Consumer Law Center earmarked for working to safeguard the protections of the TCPA only if a second distribution is not feasible.
- Your rights and options, and the deadlines to exercise them, are explained in this Notice. Your legal rights are affected whether you act or don’t act. Read this Notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
SUBMIT A CLAIM FORM	If you submit a valid Claim Form by <b>January 30, 2018</b> , you will receive a payment and will give up your rights to sue XPO and/or any other released parties on a released claim. Claim Forms may be submitted by mail to XPO Logistics, Inc. TCPA Settlement, c/o KCC Settlement Administrator, P.O. Box 404040, Louisville, KY 40233-9844 or through the settlement website by clicking <a href="#">here</a> or by calling 844-454-4160.
EXCLUDE YOURSELF OR “OPT-OUT” OF THE SETTLEMENT	If you ask to be excluded, you will not receive a payment. This is the only option that allows you to pursue your own claims against XPO and/or other released parties in the future. The deadline for excluding yourself is <b>January 30, 2018</b> .
OBJECT TO THE SETTLEMENT	Write to the Court about why you believe the settlement is unfair in any respect. The deadline for objecting is <b>January 30, 2018</b> . To obtain a benefit from this settlement, you must still submit a Claim Form. If you submit only an objection without a Claim Form, you will not receive any benefit from the settlement and you will give up your rights to sue XPO and/or any other released parties on a released claim.
DO NOTHING	If you do nothing, you will not receive any monetary award and you will give up your rights to sue XPO and/or any other released parties on a released claim.
GO TO THE FINAL APPROVAL HEARING	Ask to speak in Court about the fairness of the settlement. To speak at the Final Approval Hearing, you must file a document including your name, address, telephone number and your signature with the Court stating your intention to appear no later than <b>February 15, 2018</b> .

- These rights and options—and the deadlines to exercise them—are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the settlement. Payments will be made if the Court approves the settlement and after any appeals are resolved. Please be patient.

**BASIC INFORMATION**

The purpose of this Notice is to inform you that a proposed Settlement has been reached in the putative class action lawsuit entitled *Leung et al. v. XPO Logistics, Inc., No. 1:15-cv-03877 (N.D.IL.)*. Because your rights will be affected by this Settlement, it is extremely important that you read this Notice carefully. This Notice summarizes the settlement and your rights under it.

If you received an email or postcard describing this settlement, it is because XPO's records indicate that you may be a member of the Settlement Class. You are a member of the Settlement Class if you are one of the persons who have been identified in the call data produced in this litigation bearing the litigation production numbers XPOLG024550 and XPOLG024553 where XPO or its subsidiary placed a pre-recorded post-delivery survey call after May 1, 2011 relating to an IKEA delivery. Excluded from the Settlement Class are the Judge to whom the Action is assigned and any member of the Court's staff and immediate family, and all persons who are validly excluded from the Settlement Class.

In a class action, one or more people called Class Representatives (here, Plaintiff) sue on behalf of people who allegedly have similar claims. This group is called a class and the persons included are called class members. One court resolves the issues for all of the class members, except for those who exclude themselves from the class.

Here, Plaintiff claims XPO violated the TCPA by sending pre-recorded survey calls to cellular telephones without prior express consent. XPO denies these allegations and denies any claim of wrongdoing. The Court has conditionally certified a class action for settlement purposes only. The Honorable Edmond E. Chang is in charge of this action.

The Court did not decide in favor of Plaintiff or XPO. Instead, both sides agreed to this settlement. That way, they avoid the risk and cost of a trial, and the Settlement Class members will receive compensation. Plaintiff and Class Counsel think the settlement is best for all persons in the Settlement Class.

### **WHO IS IN THE SETTLEMENT CLASS?**

The Court has certified a class action for settlement purposes only. The Settlement Class is defined as:

“**Settlement Class**” means the persons whose cellular telephone numbers are identified in the call data produced in this litigation bearing the litigation production numbers XPOLG024550 and XPOLG024553 where XPO or its subsidiary placed a pre-recorded post-delivery survey call after May 1, 2011 relating to an IKEA delivery. Excluded from the Settlement Class are the Judge to whom the Action is assigned and any member of the Court's staff and immediate family (to the extent they received a listed call) and all persons who have opted-out of the Settlement Class.

“Settlement Class Member” is defined as any person in the Settlement Class who is not validly excluded from the Settlement Class. If you are still not sure whether you are included, you can visit other sections of the Settlement Website, [www.XPOTCPASettlement.com](http://www.XPOTCPASettlement.com), you may write to the Settlement administrator at XPO Logistics, Inc. TCPA Settlement, c/o KCC Settlement Administrator, P.O. Box 404040, Louisville, KY 40233-9844, or you may call the Toll-Free Settlement Hotline, 844-454-4160, for more information.

### **THE LAWYERS REPRESENTING YOU**

The Court has appointed the law firm of Keogh Law, Ltd. as Class Counsel to represent you and the other persons in the Settlement Class. You will not be personally charged by these lawyers.

Class Counsel will ask the Court to approve payment of up to one third of the Settlement Fund, or \$2,333,334, for attorneys' fees plus reasonable expenses. Class Counsel also will ask the Court to approve payment of \$10,000 to Plaintiff for their services as Class Representatives. The Court may award less than these amounts.

### **THE SETTLEMENT BENEFITS – WHAT YOU GET**

**Settlement Fund.** XPO will pay the total amount of \$7,000,000 into a fund (the “Settlement Fund”), which will cover: (1) cash payments to Settlement Class Members who submit timely and valid Claim Forms; (2) an award of attorneys' fees and costs to Class Counsel, in an amount equal to one third of the settlement fund, not to exceed \$2,333,334 plus expenses, as approved by the Court; (3) service award to the Plaintiffs, in an amount not to exceed \$10,000 to Plaintiff, as approved by the Court; (4) the costs of notice and administration of the Settlement; and (5) under certain circumstances as described below, a charitable contribution.

**Cash Payments.** All Settlement Class Members are eligible to submit a Claim Form and receive a cash payment. To submit a Claim Form, follow the procedures described below.

**No Portion of the Settlement Fund Will Return to XPO.** Any money remaining in the Settlement Fund after paying all valid and timely claims to Settlement Class Members, attorneys' fees and costs to Class Counsel, any service award to Plaintiffs and the costs of notice and administration of the settlement will be paid either: (1) in a second distribution to Settlement Class Members who submitted valid and timely Claim Forms and whose initial payments were cashed; or (2) if there are not enough funds to justify a second distribution, the remaining funds will be donated to National Consumer Law Center earmarked for working to safeguard the protections of the TCPA. There will only be a second distribution if there are enough funds to pay each Settlement Class Member \$10.00 or more through a second distribution. No portion of the Settlement Fund will return to XPO.

Your share of the Settlement Fund will depend on the number of valid Claim Forms that Settlement Class Members submit. Class Counsel estimate that the amount of the cash award (while dependent upon the number of claims) may be within the range of

\$131 to \$263. **This is an estimate only. The final cash payment amount will depend on the total number of valid and timely claims submitted by Settlement Class Members.**

Unless you exclude yourself from the settlement, you will be part of the Settlement Class and will be bound by the release of claims in the settlement. This means that if the settlement is approved, you cannot rely on any Released Claim to sue or continue to sue, on your own or as part of any other lawsuit, XPO and/or any other Released Parties, as explained in the settlement agreement. It also means that all of the Court's orders will apply to you and legally bind you. Unless you exclude yourself from the settlement, you will agree to release XPO and any other Released Parties, as defined in the settlement agreement, from any and all claims that arise from the pre-recorded post-delivery survey calls made to your cellular telephone at issue in this action.

In summary, the Release includes all claims, causes of action, suits, obligations, debts, demands, agreements, promises, liabilities, damages, losses, controversies, costs, expenses, and attorneys' fees of any nature whatsoever, whether based on any federal law, state law, common law, territorial law, foreign law, contract, rule, regulation, any regulatory promulgation (including, but not limited to, any opinion or declaratory ruling), or in equity, whether known or unknown, suspected or unsuspected, asserted or unasserted, foreseen or unforeseen, actual or contingent, liquidated or unliquidated, punitive or compensatory, as of the date of the Final Approval Order, that arise out of or relate in any way to the Released Parties' contact or attempt to contact Settlement Class Members by placing pre-recorded or auto-dialed calls to Class Plaintiff and the Settlement Class Members' cellular phones with a pre-recorded survey that was or could have been challenged in this Action, to the fullest extent that those terms are used, defined or interpreted by the TCPA or any other similar statute, relevant regulatory or administrative promulgations and case law, including, but not limited to, claims under or for a violation of the TCPA and any other statutory or common law claim arising under the TCPA as relative to pre-recorded or auto-dialed calls placed to cellular telephones (collectively, the "Released Claims").

If you have any questions about the Release or what it means, you can speak to Class Counsel, listed below, for free, or you can, at your own expense, talk to your own lawyer. The Release does not apply to persons in the Settlement Class who timely exclude themselves.

### **HOW TO OBTAIN A PAYMENT**

To receive a payment, you must submit a Claim Form. You may get a Claim Form on the Settlement Website, [www.XPOTCPASettlement.com](http://www.XPOTCPASettlement.com), or by calling the Toll-Free Settlement Hotline, 844-454-4160. **Read the instructions carefully, fill out the form completely and accurately, sign it and submit it.** To be valid, the Claim Form must be completed fully and accurately, signed and submitted timely. A Claim Form may be submitted by mail to the claims administrator at: XPO Logistics, Inc. TCPA Settlement, c/o KCC Settlement Administrator, P.O. Box 404040, Louisville, KY 40233-9844, or via the Settlement Website click [here](#).

If you are submitting your claim via the Settlement Website or via the Toll-Free Settlement Hotline, it must be submitted no later than **January 30, 2018**. If you are mailing your Claim Form to the claims administrator, it must be postmarked by that date.

### **WHEN WILL I RECEIVE MY SETTLEMENT PAYMENT?**

The Court will hold a hearing on March 7, 2018 to decide whether to approve the settlement. If the Court approves the settlement, after that, there may be appeals. It is always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. Everyone who sends in a Claim Form will be informed of the progress of the settlement through information posted on the Settlement Website at [www.XPOTCPASettlement.com](http://www.XPOTCPASettlement.com). Please be patient.

### **EXCLUDING YOURSELF FROM THE SETTLEMENT**

If you want to keep the right to sue or continue to sue XPO or a Released Party, as defined in the settlement agreement, then you must take steps to get out of the Settlement Class. This is called excluding yourself from, or opting-out of, the Settlement Class.

To exclude yourself from the settlement, you must send an exclusion request to the Settlement administrator. To be valid, an exclusion request must: (i) be signed by the person in the Settlement Class who is requesting exclusion; (ii) include the full name and address of the person in the Settlement Class requesting exclusion; and (iii) include the following statement: "I/we request to be excluded from the settlement in the XPO TCPA action." No request for exclusion will be valid unless all of the information described above is included. No person in the Settlement Class, or any person acting on behalf of or in concert or participation with that person in the Settlement Class, may exclude any other person in the Settlement Class from the Settlement Class.

**To be valid, you must mail your exclusion request postmarked no later than January 30, 2018 to the Settlement administrator at XPO Logistics, Inc. TCPA Settlement, c/o KCC Settlement Administrator, P.O. Box 404040, Louisville, KY 40233-9844.**

**If I do not exclude myself, can I sue XPO Logistics, Inc. for the same thing later?**

No. If you do not exclude yourself, you give up any right to sue (or continue to sue) XPO Logistics or any Released Parties for the claims that this settlement resolves.

**If I exclude myself, can I get a benefit from this settlement?**

No. If you ask to be excluded, you will not be able to submit a Claim Form for a settlement payment and you cannot object to the settlement.

## OBJECTING TO THE SETTLEMENT

If you are in the Settlement Class, you can object to the settlement or any part of the settlement that you think the Court should reject, and the Court will consider your views. If you do not provide a written objection in the manner described below, you shall be deemed to have waived any objection and shall forever be foreclosed from making any objection to the fairness, reasonableness, or adequacy of the settlement or the award of any attorneys' fees and costs and/or service award.

To object, you must make your objection in writing, stating that you object to the settlement in XPO Logistics Telephone Consumer Protection Act Litigation. To be considered by the Court, the written objection must: (i) attach documents establishing, or provide information sufficient to allow the parties to confirm, that the objector is a Settlement Class Member, including providing the cellular telephone number at which you received the survey call; (ii) include a statement of the specific objections; and (iii) state the grounds for objection, as well as identify any documents which the objector desires the Court to consider.

**To be considered, you must file your objections with the Court and mail your objections to the addresses below no later than January 30, 2018.**

For Court:

Everett McKinley Dirksen  
United States Courthouse  
219 South Dearborn Street  
Chicago, IL 60604

For Plaintiff:

Keith Keogh, Esq.  
Keogh Law, Ltd.  
55 Monroe St., 3390  
Chicago, IL 60603

For XPO Logistics:

E. Clay Marquez  
O'Melveny & Myers LLP  
Two Embarcadero Center, 28<sup>th</sup> Floor  
San Francisco, CA 94111

**Even if you timely and properly object, to obtain a benefit from this settlement, you must submit a Claim Form. If you object but fail to submit a Claim Form, you will not receive any monetary award.**

Objecting is telling the Court that you do not like something about the settlement. You can object only if you stay in the Settlement Class. Excluding yourself means 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.

## IF YOU DO NOTHING

If you do nothing, you will not receive any monetary award and you will give up your rights to sue XPO and/or any other Released Parties on a Released Claim. For information relating to what rights you are giving up, see above.

## THE FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing at 11:45 a.m. on March 7, 2018 at the United States District Court for the Northern District of Illinois Eastern Division, Room 2119, Everett McKinley Dirksen United States Courthouse, 219 South Dearborn St., Chicago, IL 60604. At this hearing, the Court will consider whether the settlement is fair, reasonable and adequate. If there are valid objections that comply with the requirements above, the Court also will consider them and will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay to Class Counsel and Plaintiffs.

The Final Approval Hearing may be moved to a different date or time without additional notice, so it is a good idea to check the Settlement Website for updates.

### Do I have to come to the hearing?

No. Class Counsel will appear on behalf of the Settlement Class. But, you are welcome to come, or have your own lawyer appear, at your own expense.

You may ask the Court for permission to speak at the Final Approval Hearing, but only in connection with an objection that you have timely submitted to the Court according to the procedure set forth above. To speak at the Final Approval Hearing, you must also file a document with the Court stating your intention to appear. For this document to be considered, it must include your name, address, telephone number and your signature. The document must be filed with the Court no later than **February 15, 2018**. You cannot speak at the hearing if you exclude yourself from the settlement.

## GETTING MORE INFORMATION

This notice is only a summary of the proposed settlement. You can get a copy of the settlement agreement by visiting the Settlement Website, [www.XPOTCPASettlement.com](http://www.XPOTCPASettlement.com), or you can write to the address below or call the Toll-Free Settlement Hotline, 844-454-4160. You can also call class counsel with any questions at 866.726.1092 or [TCPASettlement@keoghlaw.com](mailto:TCPASettlement@keoghlaw.com).

XPO Logistics, Inc. TCPA Settlement  
c/o KCC Settlement Administrator  
P.O. Box 404040  
Louisville, KY 40233-9844

**DO NOT CALL OR WRITE TO THE COURT, THE CLERK OF THE COURT, XPO LOGISTICS, INC. OR XPO'S COUNSEL ABOUT THE SETTLEMENT. ALSO, TELEPHONE REPRESENTATIVES WHO ANSWER CALLS MADE TO THE TOLL-FREE NUMBER ARE NOT AUTHORIZED TO CHANGE THE TERMS OF THE SETTLEMENT OR THIS NOTICE.**