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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

JEFFREY A. THOMAS,  
individually and on behalf of all  
others similarly situated,

Plaintiff,

v.

DUN & BRADSTREET  
CREDIBILITY CORP.,

Defendant.

Case No. CV15-03194 BRO (GJSx)

**AMENDED ORDER**  
**(1) CONDITIONALLY CERTIFYING**  
**A SETTLEMENT CLASS,**  
**(2) PRELIMINARILY APPROVING**  
**CLASS ACTION SETTLEMENT,**  
**(3) APPROVING NOTICE PLAN,**  
**AND (4) SETTING FINAL**  
**APPROVAL HEARING**

Judge: Hon. Beverly Reid O’Connell

**ORDER**

This Amended Preliminary Approval Order replaces the Preliminary Approval Order (Dkt. No. 62) entered on September 27, 2016.

Subject to Court approval, Plaintiff Jeffrey A. Thomas (“Plaintiff” or “Settlement Class Representative”) and Dun & Bradstreet Credibility Corp. (“DBCC,” or “Defendant”) entered into a Settlement Agreement dated September 8, 2016, in proposed settlement of this Action (together with its exhibits, the “Agreement”).

Application has been made for preliminary approval of the settlement set forth in the Agreement (the “Settlement”), upon the terms and conditions in the Agreement. The Court has received and reviewed (1) the Agreement and all exhibits attached thereto; (2) Plaintiff’s Memorandum in Support of the Motion for Preliminary Approval of Settlement, Conditional Certification of the Settlement Class, Approval of Notice Plan, and Setting of Final Approval Hearing and all exhibits attached thereto; and (3) all other pleadings and matters of record.

The Court preliminarily considered the Settlement to determine, among other things, whether the Settlement is sufficient to warrant the issuance of notice to members of the Settlement Class (as defined below). Upon review of the Agreement, it is hereby ORDERED as follows:

1. Preliminary Approval of Proposed Settlement. The Settlement Agreement, including all exhibits thereto, is preliminarily approved as fair, reasonable, and adequate and within the range of reasonableness for preliminary settlement approval. The Court finds that: (a) the Settlement Agreement resulted from extensive arm’s-length negotiations; and (b) the Settlement Agreement is sufficient to warrant notice of the Settlement to persons in the Settlement Class and to warrant a full hearing on final approval of the Settlement.

2. Class Certification for Settlement Purposes Only. Pursuant to Federal Rule of Civil Procedure 23(c), the Court conditionally certifies, for settlement

1 purposes only, the following Settlement Class: All persons within the United States  
2 who, between April 28, 2011 and January 31, 2016, received a nonemergency Call  
3 from or on behalf of Dun & Bradstreet Emerging Businesses Corp., or its  
4 predecessor entities, Dun & Bradstreet Credibility Corp., Credibility Corp. and  
5 Brad Acquisition Corp. to a cellular telephone through the use of an automatic  
6 telephone dialing system. Excluded from the Class are Defendant; its parent  
7 companies, affiliates or subsidiaries, or any employees thereof, and any entities in  
8 which any of such companies has a controlling interest; the judge or magistrate  
9 judge to whom the Action is assigned; any member of those judges' staffs and  
10 immediate families; and Plaintiff's counsel.

11 3. In connection with this conditional certification, the Court makes the  
12 following preliminary findings:

13 a. The Settlement Class appears to be so numerous that joinder of  
14 all members is impracticable;

15 b. There appear to be questions of law or fact common to the  
16 Settlement Class for purposes of determining whether this settlement should be  
17 approved;

18 c. Plaintiff's claims appear to be typical of the claims being  
19 resolved through the proposed settlement;

20 d. Plaintiff appears to be capable of fairly and adequately  
21 protecting the interests of all members of the Settlement Class in connection with  
22 the proposed settlement;

23 e. For purposes of determining whether the Settlement Agreement  
24 is fair, reasonable, and adequate, common questions of law and fact appear to  
25 predominate over questions affecting only individual persons in the Settlement  
26 classes. Accordingly, the Settlement Class appears to be sufficiently cohesive to  
27 warrant settlement by representation; and  
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1 f. For purposes of settlement, certification of the Settlement Class  
2 appears to be superior to other available methods for the fair and efficient  
3 settlement of the claims of the Settlement Class.

4 4. Class Representative. Plaintiff is designated as class representative.

5 5. Class Counsel. The Court appoints Lief Cabraser Heimann &  
6 Bernstein, LLP; Siri & Glimstad, LLP; and Parisi & Havens, LLP as Class Counsel.  
7 The Court finds that counsel is competent and capable of exercising all  
8 responsibilities as Class Counsel for the Settlement Class.

9 6. Settlement Hearing. A final approval hearing (the “Settlement  
10 Hearing”) shall be held before the Hon. Beverly Reid O’Connell of the Central  
11 District of California, located at 350 West 1st Street, Los Angeles, California,  
12 Courtroom 7C, on March 20, 2017, at 1:30, as set forth in the notice to the  
13 Settlement Class (described in Paragraph 7 below), to determine whether the  
14 Settlement is fair, reasonable, and adequate and should be approved. Papers in  
15 support of final approval of the Settlement, the incentive award to Plaintiff, and  
16 Class Counsel’s application for an award of attorneys’ fees, costs, and expenses  
17 (the “Fee Application”) shall be filed with the Court according to the schedule set  
18 forth in Paragraph 12 below. The Settlement Hearing may be postponed,  
19 adjourned, or continued by order of the Court without further notice to the  
20 Settlement Class. After the Settlement Hearing, the Court may enter a settlement  
21 order and final judgment in accordance with the Settlement Agreement that will  
22 adjudicate the rights of the Settlement Class Members with respect to the Released  
23 Claims being settled.

24 7. Class Notice. Class Notice shall be sent within thirty (30) business  
25 days following entry of this Order.

26 a. Mail or E-mail Notice. The Claims Administrator shall provide  
27 individual notice via first class mail to all persons or businesses in the Settlement  
28 Class for which DBCC has contact information, and via email to the extent the

1 Claims Administrator is able to obtain the electronic mail addresses of Class  
2 Members. The Claims Administrator shall use the Notice Database to obtain each  
3 Class Member's last known address where available. The Claims Administrator  
4 shall use the National Change of Address Database and other industry-standard  
5 databases to update the mailing addresses in the Notice Database. Any Notices that  
6 are returned as non-deliverable with a forwarding address shall promptly be re-  
7 mailed by the Claims Administrator to such forwarding address. For each mailing  
8 returned as undeliverable and with no forwarding address provided, the Claims  
9 Administrator will conduct a search using the corresponding telephone number in  
10 the Notice Database and, provided a reasonable match is found showing a new  
11 address, update the address and re-mail notice accordingly.

12 b. Publication Notice. By the Settlement Notice Date, the Claims  
13 Administrator will design and publish a cost-effective publication notice program,  
14 by internet rather than print notice, designed to reach businesses with web  
15 impressions targeting cell phone owners.

16 c. Website Notice. By the Settlement Notice Date, the Claims  
17 Administrator shall maintain and administer a dedicated Settlement Website  
18 containing class information and related documents, along with information  
19 necessary to file a claim, and an electronic version of the Claim Form that Class  
20 members can download, complete and submit electronically. At a minimum, such  
21 documents shall include the Settlement Agreement and Exhibits, the Settlement  
22 Notice, the FAQ Notice, the Preliminary Approval Order, a downloadable Claim  
23 Form for anyone wanting to print a hard copy and mail in the Claim Form, the  
24 operative complaint and answer in the Action, and when filed, the Final Approval  
25 Order.

26 d. FAQ Notice. The Claims Administrator shall also post on the  
27 website a formal Frequently Asked Questions ("FAQ") Notice which shall set forth  
28 in a question and answer format the details of the settlement, and the rights of Class

1 Members to participate in the Settlement, exclude themselves or object to the  
2 settlement.

3 e. Toll Free Telephone Number. Within ten (10) days of  
4 Preliminary Approval, the Claims Administrator shall set up a toll-free telephone  
5 number for receiving toll-free calls related to the settlement. That telephone  
6 number shall be maintained until the Claims Deadline. For a period of ninety (90)  
7 days thereafter, a recording will advise any caller to the toll-free telephone number  
8 that the Claims Deadline has passed and the details regarding the settlement may be  
9 reviewed on the related Settlement Website.

10 8. Findings Concerning Class Notice. The Court finds that the foregoing  
11 program of Class Notice and the manner of its dissemination is the best practicable  
12 notice under the circumstances and is reasonably calculated to apprise the  
13 Settlement Class of the pendency of this Action and their right to object to or  
14 exclude themselves from the Settlement Class. The Court further finds that the  
15 Class Notice program is reasonable, that it constitutes due, adequate, and sufficient  
16 notice to all persons entitled to receive notice, and that it meets the requirements of  
17 due process and Federal Rule of Civil Procedure 23.

18 9. Settlement Administration. The Claim Form and the claims  
19 submission process described in the Settlement Agreement are hereby approved. In  
20 addition, the Court confirms that it is appropriate for DBCC to provide the  
21 information necessary to provide the notice contemplated herein and to administer  
22 the settlement, including names, mailing and email addresses, and cellular  
23 telephone numbers, to the extent DBCC can obtain this information.

24 10. Exclusion from the Settlement Class.

25 a. Settlement Class Members may opt out of the Settlement by  
26 sending a written request to the Settlement Administrator at the address designated  
27 in the Class Notice by the Opt-Out Deadline, which is sixty (60) days from the  
28 Settlement Notice Date.

1           b.     Exclusion requests must state the Class Member’s full name,  
2 address, and telephone number. Further, the Class Member must include a  
3 statement in the written request for exclusion that he or she wishes to be excluded  
4 from the Settlement. Any Class Member who submits a valid and timely request  
5 for exclusion shall not be bound by the terms of the Settlement.

6           c.     In the event that the number of valid opt-out requests exceeds  
7 1,200 or more persons, DBCC in its sole discretion, may terminate the Settlement  
8 within ten (10) business days after the Opt-Out deadline. In the event that the  
9 Settlement is terminated pursuant to this provision, the Parties will be returned to  
10 the status quo ante as if no settlement had been negotiated or entered into.

11           All Settlement Class Members who do not opt out in accordance with the  
12 terms set forth herein will be bound by all determinations and judgments in the  
13 Actions.

14           11.   Objections to the Settlement.

15           a.     Right to Object. Any Settlement Class Member who has not  
16 previously opted out in accordance with the terms of this Agreement may appear at  
17 the Final Approval Hearing to object to the proposed settlement and/or to the  
18 application of Class Counsel for an award of attorneys’ fees and costs and/or the  
19 incentive awards, but only if the Settlement Class Member has first filed a written  
20 objection with the Clerk of Court, in accordance with the “Objection  
21 Requirements” set forth below, by the Objection Deadline. Any Settlement Class  
22 Member who does not provide a written objection in the manner described below  
23 shall be deemed to have waived any objection and shall forever be foreclosed from  
24 making any objection to the fairness, reasonableness, or adequacy of the proposed  
25 Settlement, the plan of allocation, or the award of any attorneys’ fees and/or service  
26 awards.

27           b.     Objection Requirements. In the written objection, the  
28 Settlement Class Member must state his or her full name, address, and telephone

1 number, the reasons for his or her objection, and whether he or she intends to  
2 appear at the fairness hearing on his or her own behalf or through counsel. Any  
3 documents supporting the objection must also be attached to the Objection.

4 12. No Admission of Liability. Neither the Settlement, nor any act  
5 performed or document executed pursuant to or in furtherance of the Settlement, is  
6 or may be deemed to be or may be used as an admission of the alleged claims in the  
7 operative complaints.

8 13. Stay/Bar of Other Proceedings. All proceedings in this Action are  
9 stayed until further order of the Court, except as may be necessary to implement the  
10 terms of the settlement. Pending final determination of whether the Settlement  
11 should be approved, Plaintiff, all persons in the Settlement Class and persons  
12 purporting to act on their behalf are enjoined from commencing or prosecuting  
13 (either directly, representatively or in any other capacity) against any of the  
14 Released Parties any action, arbitration or proceeding in any court, arbitration  
15 forum or tribunal asserting any of the Released Claims.

16 14. Schedule of Future Events. Further settlement proceedings in this  
17 matter shall proceed according to the following schedule:

18 a. 30 business days of entry of this Order: Deadline to provide  
19 Class Notice (the "Class Notice Date"), November 8, 2016;


20 b. 60 calendar days after the Class Notice Date: Last day to Object  
21 or Opt-Out, January 7, 2017;

22 c. 90 calendar days after the Class Notice Date: Last day to submit  
23 a Claim Form, February 6, 2017; and

24 d. March 20, 2017 at 1:30 p.m.: Final Approval Hearing.

25 IT IS SO ORDERED.

26 DATED: September 28, 2016

27   
28 HON. BEVERLY REID O'CONNELL  
United States District Judge