

# **EXHIBIT 1**

## **SETTLEMENT AGREEMENT AND RELEASE**

This Settlement Agreement and Release (the “Settlement Agreement”) is entered into by and between plaintiff Jeffrey A. Thomas (“Thomas” or “Plaintiff”), for himself and the Settlement Class members (as defined below, and collectively referred to as “Plaintiffs”), on the one hand, and Dun & Bradstreet Emerging Businesses Corp., and its predecessor entities, Dun & Bradstreet Credibility Corp., Credibility Corp. and Brad Acquisition Corp. (“Defendant”), on the other hand. Plaintiff and Defendant are referred to collectively in this Settlement Agreement as the “Parties.”

### **I. RECITALS**

**1.01** On April 28, 2015, Thomas filed a Complaint in the United States District Court for the Central District of California entitled *Thomas v. Dun & Bradstreet Credibility Corp.*, No. CV15-03194 BRO (GJSx) (C.D. Cal.) (the “Action”). The Complaint alleges that Defendant violated the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (the “TCPA”) by using an automatic telephone dialing system to call cellular phones without the prior express consent of Thomas and the putative class members.

**1.02** The Parties have engaged in extensive motion practice regarding Defendant’s defenses. On June 12, 2015, Defendant filed a motion to dismiss. (Dkt. No. 16.) Defendant argued, among other things, that: Plaintiff was not a “called party” within the meaning of the TCPA; the TCPA does not prohibit calls to business telephone numbers; and Plaintiff failed to plausibly allege that Defendant used an autodialer to call him. Plaintiff filed his opposition on July 8, 2015, contesting all grounds on which Defendant sought dismissal. (Dkt. No. 17.) On August 5, 2015, the Court denied Defendant’s motion. (Dkt. No. 23.)

**1.03** The Parties have engaged in significant discovery regarding Plaintiff’s allegations and Defendant’s defenses. Specifically, Defendant produced call data to Plaintiff’s expert so that he could determine the total number of cellular telephone numbers dialed by Defendant. Defendant produced a total of 8,812 pages of documents and responded to eight interrogatories

propounded by Plaintiff. Plaintiff issued a nonparty subpoena to call vendor OLC, Inc., which in response produced a total of 982 documents. Defendant issued a non-party subpoena to Plaintiff's telephone carrier, AT&T, which in response made a material production of documents and records. Depositions of Defendant's Rule 30(b)(6) witnesses were set but postponed in light of the Parties' mediation efforts.

**1.04** Defendant also served Plaintiff with document requests and interrogatories, and deposed Plaintiff Thomas. Defendant served third-party discovery requests on Plaintiff Thomas' business, J&J Thomas, Inc., and Plaintiff's wife and business partner. Defendant conducted depositions of Plaintiff's wife and business partner, in her individual capacity and as a representative for Plaintiff's business.

**1.05** Defendant denies all material allegations of the Complaint. Defendant specifically disputes, although this is not an exhaustive list: that it called the named Plaintiff; that it used an automatic telephone dialing system to call Plaintiff and the putative class; that it lacked consent to call Plaintiff and the putative class; that Plaintiff suffered actual, concrete harm as a result of receiving telephone calls; and that any class could be certified. Nevertheless, given the risks, uncertainties, burden and expense of continued litigation, Defendant has agreed to settle the Action on the terms set forth in this Settlement Agreement, subject to Court approval.

**1.06** This Settlement Agreement resulted from good faith, arm's-length settlement negotiations. During this process, Defendant produced documents requested by Class Counsel (as defined below) and provided sworn testimony on topics relevant to the settlement.

**1.07** The Parties understand, acknowledge and agree that the execution of this Settlement Agreement constitutes the settlement and compromise of disputed claims. This Settlement Agreement is inadmissible as evidence against any party except to enforce the terms of the Settlement Agreement and is not an admission of wrongdoing or liability on the part of any party to this Settlement Agreement.

**1.08** The settlement contemplated by this Settlement Agreement is subject to

preliminary approval and final approval by the Court, as set forth herein. 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 hereof.

## **II. DEFINITIONS**

**2.01** “Action” means *Thomas v. Dun & Bradstreet Credibility Corp.*, Case No. CV15-03194 BRO (GJSx) (C.D. Cal.).

**2.02** “Agreement” or “Settlement Agreement” means this Settlement Agreement and Release.

**2.03** “Approved Claims” means claims that have been timely submitted and approved for payment.

**2.04** “DBCC” refers to Dun & Bradstreet Credibility Corp.

**2.05** “CAFA Notice” refers to the notice requirements imposed by the Class Action Fairness Act, 28 U.S.C. § 1715(b).

**2.06** “Call” means calls as set forth in 47 U.S.C. § 227(b).

**2.07** “Cash Award” means a cash payment to an eligible Settlement Class Member.

**2.08** “Claim Form” means the claim form in English and Spanish attached hereto collectively as Exhibit A.

**2.09** “Claims Deadline” means ninety (90) calendar days from the Settlement Notice Date.

**2.10** “Claims Period” means the 90-day period that begins on the Settlement Notice Date.

**2.11** “Claims Administrator” means Kurtzman Carson Consultants LLC, or KCC.

**2.12** “Class Counsel” means and includes Lief Cabraser Heimann & Bernstein, LLP, Siri & Glimstad, LLP, and Parisi & Havens, LLP.

**2.13** “Class Notice” means any type of notice that has been or will be provided to the

Settlement Class and any additional notice that might be ordered by the Court.

**2.14** “Class Period” means from April 28, 2011 to January 31, 2016.

**2.15** “Class Representative” means Plaintiff Jeffrey A. Thomas.

**2.16** “Court” shall mean the United States District Court for the Central District of California, and the U.S. District Judge to whom the Action is assigned.

**2.17** “Cy Pres Distribution” means any monies that may be distributed in connection with the Settlement, pursuant to Section 7.06.f.

**2.18** “Effective Date” means the date when the Judgment has become final and non-appealable as provided in Section 12.

**2.19** “Exclusion Request Form” means the exclusion form in English and Spanish attached hereto collectively as Exhibit F.

**2.20** “FCC” means the Federal Communications Commission.

**2.21** “Final Approval Hearing” means the hearing held by the Court to determine whether to finally approve the Settlement set forth in this Settlement Agreement as fair, reasonable and adequate, sometimes referred to herein as the “Fairness Hearing.”

**2.22** “Final Approval Order” means the Order to be submitted to the Court in connection with the Final Approval Hearing, which shall include any award of attorney’s fees and costs.

**2.23** “Funding Date” means five (5) business days after the date the Final Approval Order becomes a final and non-appealable order.

**2.24** “Notice” means the notices to be provided to Class Members as set forth in Section 8. The forms of the Notice in English and Spanish are attached hereto collectively as Exhibits B and C.

**2.25** “Notice Database” means the database containing Class Members’ information to be provided by Defendant pursuant to Section 7.02.

**2.26** “Objection Deadline” means sixty (60) calendar days from the Settlement Notice

Date.

**2.27** “Opt-Out Deadline” means sixty (60) calendar days from the Settlement Notice

Date.

**2.28** “Preliminary Approval Date” means the date on which the Court grants preliminary approval of this settlement and orders Notice to the Settlement Class.

**2.29** “Preliminary Approval Order” means the proposed Order to be submitted to the Court in connection with preliminary approval, in the form attached hereto as Exhibit D.

**2.30** “Released Claims” means the releases identified in Section 14.

**2.31** “Released Parties” means Defendant and The Dun & Bradstreet Corporation, Dun & Bradstreet, Inc. and any third party vendors making calls to settlement Class Members on behalf of Defendant, and each of their respective past, present, and future directors, officers, managers, employees, general partners, limited partners, principals, subsidiaries, insurers, reinsurers, shareholders, attorneys, advisors, representatives, predecessors, successors, divisions, joint ventures, assigns, or related entities, and each of their respective executors, successors, assigns, and legal representatives.

**2.32** “Settlement Class” means and includes all persons within the United States who, between April 28, 2011 and January 31, 2016, received a nonemergency Call from or on behalf of Defendant to a cellular telephone through the use of an automatic telephone dialing system.

Excluded from the Class are Defendant; its parent companies, affiliates or subsidiaries, or any employees thereof, and any entities in which any of such companies has a controlling interest; the judge or magistrate judge to whom the Action is assigned; any member of those judges’ staffs and immediate families; and Plaintiff’s counsel.

**2.33** “Settlement Class Members” means those persons who are members of the Settlement Class, as set forth in the Settlement Class definition in Section 2.32 above, and who do not timely and validly request exclusion from the Settlement Class.

**2.34** “Settlement Costs” means all costs incurred by the Class and their attorneys in

connection with the Action, including but not limited to Plaintiffs' attorneys' fees, their costs of suit, Plaintiffs' expert or consultant fees, any incentive payments paid to the Class Representative, Total Notice Costs as defined in Section 2.39, costs of claims administration and all other costs of administering the settlement.

**2.35** "Settlement Fund" means the non-reversionary cash sum that DBCC will pay to settle the Action and obtain a release of all Released Claims in favor of the Released Parties, which is in the total amount of \$10,500,000.00.

**2.36** "Settlement Notice Date" means fifteen (15) business days after an Order Granting Preliminary Approval is issued.

**2.37** "Settlement Website" means the Internet website operated by the Claims Administrator as described in Section 8.04.

**2.38** "TCPA" means the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.*, and any regulations or rulings promulgated under it.

**2.39** "Total Notice Costs" means all reasonable sums spent by the Claims Administrator to provide notice to Class Members as ordered by the Court after Preliminary Approval of this Settlement.

### **III. BOTH SIDES RECOMMEND APPROVAL OF THE SETTLEMENT**

**3.01** Defendant's Position on the Conditional Certification of Settlement Class. Solely for purposes of avoiding the expense, risk and inconvenience of further litigation, Defendant does not oppose the certification for settlement purposes only of the Settlement Class. Preliminary certification of the Settlement Class shall not be deemed a concession that certification of a litigation class is appropriate, nor would Defendant be precluded from challenging class certification in further proceedings in the Action or in any other action if the Settlement Agreement is not finalized or finally approved. If the Settlement Agreement is not finally approved by the Court without any material alterations for any reason whatsoever, the

certification of the Settlement Class will be void, and no doctrine of waiver, estoppel or preclusion will be asserted in any litigated certification proceedings in the Action or any other proceeding. No agreements made by or entered into by Defendant in connection with the Settlement Agreement may be used by Plaintiffs, any person in the Settlement Class or any other person to establish any of the elements of class certification in any litigated certification proceedings, whether in the Action or any other judicial proceeding.

**3.02** Plaintiff's Belief in the Merits of Case. Plaintiff believes that the claims asserted in the Action have merit and that the evidence developed to date supports those claims. This Settlement shall in no event be construed or deemed to be evidence of or an admission or concession on the part of Plaintiff that there is any infirmity in the claims asserted by Plaintiff, or that there is any merit whatsoever to any of the contentions and defenses that Defendant has asserted.

**3.03** Plaintiff Recognizes the Benefits of Settlement. Plaintiff recognizes and acknowledges, however, the expense and amount of time which would be required to continue to pursue the Action against Defendant, as well as the uncertainty, risk and difficulties of proof inherent in prosecuting such claims on behalf of the Class. Plaintiff has concluded that it is desirable that the Action and any Released Claims be fully and finally settled and released as set forth in this Settlement. Plaintiff and Class Counsel believe that the agreement set forth in this Settlement confers substantial benefits upon the Class and that it is in the best interests of the Class to settle as described herein.

#### **IV. SETTLEMENT TERMS AND BENEFITS TO THE SETTLEMENT CLASS**

**4.01** Defendant's Business Practices To Ensure Compliance. Prior to and during the pendency of this lawsuit, Defendant initiated certain practice changes that are designed to prevent violations of the TCPA's provisions on dialing cell phones using an automatic telephone dialing system.



**4.02** Monetary Consideration. Defendant will pay a cash sum in the total amount of \$10,500,000.00 (the “Settlement Fund”), inclusive of attorney’s fees, incentive awards, and notice and administrative costs as provided for in Section 7.03, to settle the Action and obtain a release of all Released Claims in favor of the Released Parties as set forth herein. Defendant shall not, under any circumstances, be obligated to pay in connection with this Settlement any amounts in addition to the amount of the Settlement Fund. Defendant will pay the full amount of the Settlement Fund (less any amounts it must pay prior to the Funding Date pursuant to the provisions of this Settlement Agreement) on or before the Funding Date. The Settlement Fund will be used to pay Approved Claims and any Settlement Costs. Settlement Class Members will be eligible for a cash payment, the amount of which is dependent upon the number of Approved Claims, as provided in Section 4.04.

**4.03** Eligibility for Settlement Awards. Settlement Awards shall be made to eligible Settlement Class Members on a claims-made basis. Each Settlement Class Member will be entitled to make a valid and timely claim to receive a Settlement Award in the form of a check or a secure electronic payment. Each member of the Settlement Class shall be entitled to make one Claim for a Settlement Award for each cellular telephone number to which the Class Member subscribed at the time it received Call(s) from Defendant, regardless of the number of Calls at that cellular telephone number that such Settlement Class Member may have received.

**4.04** Amount Paid per Claim. Each Settlement Class Member who makes a valid and timely Claim shall receive a Settlement Award. The amount of each Settlement Award shall be determined by the following formula:  $(\text{Total Settlement Fund} - \text{Settlement Costs}) \div (\text{Total Number of Valid and Timely Claims}) = \text{Settlement Award}$ . Therefore, the Settlement Award to be paid to each Settlement Class Member who makes a valid and timely Claim is the Settlement Class Member’s pro rata share of the Total Payments to Settlement Class Members. Class Counsel conservatively estimate that each Settlement Award shall be at least \$60 to \$120. However, in no event shall a Settlement Class Member receive more than \$1,500 in Settlement

Awards after all distributions are made (including any second distributions).

**V. ATTORNEYS' FEES, COSTS AND PAYMENT TO CLASS REPRESENTATIVES**

**5.01 Attorneys' Fees and Costs.** Plaintiffs' Counsel shall move the Court for an award of attorneys' fees and expenses to be paid from the Settlement Fund. Defendant will not object to any request by Plaintiffs' Counsel for attorneys' fees in an amount not exceeding 30% (thirty percent) of the Settlement Fund, nor will it object to any amounts sought for the costs incurred by Plaintiffs' Counsel in litigating the Action. Class Counsel shall be entitled to payment of the fees awarded by the Court out of the Settlement Fund within five (5) business days of the Funding Date, as defined in Section 2.23 above. Class Counsel are jointly and severally liable to Defendant for repayment of fees received should the Final Approval Order or the fee Order be reversed or reduced on appeal. Court approval of attorneys' fees and costs, or their amount, will not be and is not a condition of the Settlement.

**5.02 Payment to Class Representative.** Class Representative will also ask the Court to award him an incentive payment for the time and effort he has personally invested in this Action. Within five (5) business days after the Funding Date, and after receiving a W-9 form from the Class Representative, the Claims Administrator shall pay to Plaintiffs' counsel the amount of any incentive payment awarded by the Court, and Plaintiffs' counsel shall disburse such funds. Court approval of any incentive payment, or of its amount, will not be and is not a condition of the Settlement.

**5.03 Settlement Independent of Award of Fees, Costs and Incentive Payments.** The payments of attorneys' fees, costs and the incentive payment set forth in Sections 5.01 and 5.02 are subject to and dependent upon the Court's approval as fair, reasonable, adequate and in the best interests of Settlement Class Members. However, this Settlement is not dependent upon the Court's approving Plaintiffs' requests for such payments or awarding the particular amounts sought by Plaintiffs. In the event the Court declines Plaintiffs' requests or awards less than the

amounts sought, this Settlement shall continue to be effective and enforceable by the Parties.

## **VI. PRELIMINARY APPROVAL**

**6.01 Order of Preliminary Approval.** As soon as practicable after the execution of this Agreement, and in any event on or before September 8, 2016, Plaintiffs shall move the Court for entry of the Preliminary Approval Order in substantially the form attached as Exhibit D. Defendants shall not oppose the motion for preliminary approval. Pursuant to the motion for preliminary approval, the Plaintiffs will request that:

- a. the Court conditionally certify the Class for settlement purposes only and appoint Class Counsel as counsel for the Class for settlement purposes only;
- b. the Court preliminarily approve the settlement and this Agreement as fair, adequate and reasonable, and within the reasonable range of possible final approval;
- c. the Court approve the form(s) of Notice and find that the notice program set forth herein constitutes the best notice practicable under the circumstances, and satisfies due process and Rule 23 of the Federal Rules of Civil Procedure;
- d. the Court set the date and time for the Final Approval Hearing, which may be continued by the Court from time to time without the necessity of further notice; and,
- e. the Court set the Claims Deadline, the Objection Deadline and the Opt-Out Deadline.

## **VII. ADMINISTRATION AND NOTIFICATION PROCESS**

**7.01 Third-Party Claims Administrator.** The Claims Administrator shall be responsible for all matters relating to the administration of this settlement, as set forth herein. Those responsibilities include, but are not limited to, serving the CAFA Notice, giving notice to class members, obtaining new addresses for returned email and mail, setting up and maintaining the Settlement Website and toll-free telephone number, fielding inquiries about the settlement, processing claims, acting as a liaison between Settlement Class Members and the Parties

regarding claims information, approving claims, rejecting any claim form where there is evidence of fraud, directing the mailing of settlement payments to Settlement Class Members, and any other tasks reasonably required to effectuate the foregoing. The Claims Administrator will provide monthly updates on the claims status to counsel for all Parties. Class Counsel shall be responsible for supervising the Claims Administrator and will use best efforts to ensure that it acts in accordance with this Settlement Agreement and any orders of the Court.

**7.02** Notice Database. To facilitate the notice and claims administration process, Defendant will provide to the Claims Administrator, in an electronically searchable and readable format, a Notice Database which includes reasonably available information, if such information exists, for all known Class Members, such as by way of example the names, last known mailing addresses, if any, last known email address, if any, and cellular telephone numbers called, if any, for all known Class Members, to the extent such information can be reasonably obtained from the computerized records Defendant maintains. Defendant will provide the Notice Database as soon as practicable and, in any event, by no later than ten (10) business days after the entry of the Preliminary Approval Order. Defendant represents for settlement purposes that the size of the Class is approximately 1,192,555 persons. If any of the terms of this Settlement Agreement relating to the Claims Administrator's services would unreasonably hinder or delay such processes or make them more costly, the Claims Administrator shall so advise the Parties, and the Parties will accommodate the Claims Administrator to the extent necessary to carry out the intent of this Settlement Agreement. Any personal information relating to Class Members provided to the Claims Administrator or Class Counsel pursuant to this Settlement Agreement shall be provided solely for the purpose of providing notice to Class Members and allowing them to recover under this Settlement; shall be kept in strict confidence; shall not be disclosed to any third party; shall be destroyed after all Cash Awards, secondary distributions and Cy Pres Distributions have been made; and, shall not be used for any other purpose.

**7.03** Payment of Notice and Claims Administration Costs. Defendant shall pay a

portion of the Total Notice Costs and reasonable costs of settlement administration that are incurred prior to the creation of the Settlement Fund up to \$350,000, and Defendant will be given credit for such payments which shall be deducted from the Settlement Fund as set forth below. The Claims Administrator shall provide an estimate of the amount of costs required to email and mail notice, establish the Settlement Website and establish a toll-free telephone number, as well as any other initial administration costs to the Parties. Defendant shall pay a portion of the estimated amount, up to \$350,000, to the Claims Administrator within ten (10) business days after the entry of the Preliminary Approval Order. After that upfront payment of administration costs by Defendant, the Claims Administrator shall bill Defendant monthly for the reasonable additional costs of settlement administration, until such time as the Settlement Fund is established. Defendant will be given credit for such payments which shall be deducted from the Settlement Fund. Any amounts paid by Defendant for the estimated costs of administration which are not incurred by the Claims Administrator for those itemized costs shall be used for other administration costs incurred by the Claims Administrator, or shall be deducted from future billings by the Claims Administrator. The Claims Administrator shall maintain detailed records of the amounts spent on the administration of the settlement and shall provide those to the Parties monthly. At such time that Defendant funds the Settlement Fund, all amounts previously paid to the Claims Administrator by Defendant shall be deducted from the total payment which Defendant is required to pay to create the Settlement Fund.

**7.04** Cap on Notice and Claims Administration Costs. The Claims Administrator has agreed to a hard cap of \$800,000.00 for all costs of Notice and Claims Administration, so long as there are no material changes to the class volume or scope of work reported by Plaintiff to the Claims Administrator.

**7.05** Distribution of the Settlement Fund. The Claims Administrator shall distribute the funds in the Settlement Fund in the following order and within the time period set forth with

respect to each such payment:

a. first, no later than five (5) business days after the Funding Date, the Claims Administrator shall pay all attorneys' fees and costs ordered by the Court, as described in Section 5.01, and shall pay to the Class Representative any incentive award ordered by the Court, as described in Section 5.02;

b. next, no later than twenty (20) calendar days after the Effective Date, the Claims Administrator shall be paid for any unreimbursed costs of administration due at that time;

c. next, no later than thirty (30) calendar days after the Effective Date, the Claims Administrator shall pay the Settlement Awards to qualified class members;

d. next, no sooner than 180 calendar days after the date on which the last check for a Settlement Award was issued, the Claims Administrator shall, in the event that the combined amounts of any checks attributable to Settlement Awards that remain uncashed exceeds \$200,000, distribute any such funds on a pro rata basis to Class Members who cashed settlement checks or received electronic payments pursuant to Sections 4.04 (the "Second Distribution"). All costs associated with the Second Distribution shall be paid from the remaining funds in the Settlement Fund;

e. finally, on the Final Distribution Date, which is the earlier of (i) the date as of which all the checks for Settlement Awards have been cashed, or (ii) 180 calendar days after the date on which the last check for a Settlement Award was issued, the Claims Administrator shall, (a) in the event that the combined amounts of any checks attributable to Settlement Awards that remain uncashed are equal to or less than \$200,000.00, or (b) in the event that, after a Second Distribution, the combined amounts of any checks attributable to Settlement Awards that remain uncashed exceeds \$200,000.00, pay any amount remaining in the Settlement Fund Account from uncashed settlement checks to one or more charitable organizations to be agreed by the Parties and submitted to the Court for approval. If the Parties cannot agree on the charitable organization(s) to receive funds, the Parties may submit for approval more than one

organization and allow the Court to decide the recipient.

## **VIII. NOTICES**

**8.01 Timing of Class Notice.** Class Notice shall be provided to all persons in the Settlement Class within thirty (30) business days following entry of the Preliminary Approval Order as described herein.

**8.02 E-Mailing or Mailing of Settlement Notice.** The Claims Administrator shall send the initial Settlement Notice to the Class Members via: (i) first class mail within thirty (30) business days after entry of the Preliminary Approval Order; and (ii) electronic mail, to the extent the Claims Administrator is able to obtain the electronic mail addresses of Class Members . The Claims Administrator shall use the Notice Database to obtain each Class Member's last known address where available. The last known address of persons in the Settlement Class, as set forth in the Notice Database, will be subject to confirmation or updating as follows: (i) the Claims Administrator will check each address against the United States Post Office National Change of Address Database before the initial mailing, (ii) for each mailing returned as undeliverable and with no forwarding address provided, the Claims Administrator will conduct a search using the corresponding telephone number in the Notice Database and, provided a reasonable match is found showing a new address, update the address accordingly, (iii) the Claims Administrator will update addresses based on any forwarding information received from the United States Post Office, and (iv) the Claims Administrator will update addresses based on verified requests received from persons in the Settlement Class. The Claims Administrator will promptly re-mail the Notices to the updated addresses provided under scenarios ii, iii, and iv above.

**8.03 Publication Notice.** Subject to approval by the Court, the Claims Administrator will design and publish a cost-effective publication notice program, by internet rather than print notice, which the Parties believe will fully satisfy the requirements of due process.

**8.04** Website Notice. By the Settlement Notice Date, the Claims Administrator shall maintain and administer a dedicated settlement website (www.CredibilityTCPASettlement.com) containing class information and related documents, along with information necessary to file a claim, and an electronic version of the Claim Form members can download, complete and submit electronically. At a minimum, such documents shall include the Settlement Agreement and Exhibits, the Settlement Notice, a Frequently Asked Questions Notice (“FAQ Notice”), the Preliminary Approval Order, a downloadable Claim Form for anyone wanting to print a hard copy and mail in the Claim Form, the operative complaint in the Action, the operative answer in the Action, and, when filed, the Final Approval Order.

**8.05** FAQ Notice. After the Parties agree on the appropriate language contained in an FAQ Notice, the Claims Administrator shall post on the Settlement Website an FAQ Notice which shall set forth in a question and answer format the details of the settlement, and the rights of Class Members to participate in the Settlement, exclude themselves or object to the settlement.

**8.06** Toll Free Telephone Number. Within ten (10) business days of Preliminary Approval, the Claims Administrator shall set up a toll-free telephone number for receiving toll-free calls related to the settlement. That telephone number shall be maintained by the Claims Administrator until the Claims Deadline. For a period of ninety (90) days after the Claims Deadline, a recording will advise any caller to the toll-free telephone number that the Claims Deadline has passed and the details regarding the settlement may be reviewed on the related settlement website.

**8.07** CAFA Notice. The Claims Administrator shall be responsible for serving the CAFA notice required by 28 U.S.C. § 1715 within ten (10) business days of the filing of the Preliminary Approval Motion.

## **IX. CLAIMS PROCESS**

**9.01** Potential Claimants. Each Class Member who does not timely and validly request



exclusion from the Settlement as required in this Agreement shall be a Settlement Class Member and entitled to make a claim. Each Settlement Class Member shall be entitled to make one claim for each cellular telephone number to which the Class Member subscribed at the time it received Call(s) from Defendant.

**9.02** Conditions for Claiming Settlement Award. To make a claim, Settlement Class Members must submit a valid and timely Claim Form, which shall contain the information set forth in Exhibit A hereto, including: (i) the Settlement Class Member's full name or the business name listed as the subscriber for the cellular phone number that received Call(s); (ii) confirmation that the Settlement Class Member, between April 28, 2011 and January 31, 2016, received one or more non-emergency Calls from Defendant to a cellular telephone through the use of an automated dialing system; and (iii) the Settlement Class Member's election to receive payment either via mailed check or electronic payment. If a Settlement Class Member fails to fully complete a Claim Form, the Claim will be invalid and the Claims Administrator shall send the claimant a notice via e-mail or U.S. Mail advising the claimant that the claim is deficient and stating the reasons it is deficient. Any Settlement Class Member who timely submits an incomplete or inaccurate Claim Form shall be permitted to re-submit a Claim Form within ten (10) business days of the sending of notice of the defect by the Claims Administrator. Class Counsel shall be kept apprised of the volume and nature of defective claims and allowed to communicate with Class Members as they deem appropriate to cure such deficiencies, subject to the previously established deadlines.

**9.03** Mailing or Electronic Payment of Cash Awards. Cash Awards will be sent to Settlement Class Members by the Claims Administrator via U.S. mail or electronic payment, at the Settlement Class Member's election, no later than sixty (60) calendar days after the Funding Date. If any settlement checks are returned, the Claims Administrator will attempt to obtain a new mailing address for that Settlement Class Member as described in Section 8.02. If, after a second mailing, the settlement check is again returned, no further efforts need be taken by the

Claims Administrator to resend the check. The Claims Administrator will advise Class Counsel and counsel for Defendant of the names of the Settlement Class Members whose checks are returned by the postal service as soon as practicable. Each settlement check will be negotiable for one hundred eighty (180) calendar days after the issue date on the settlement check. Upon request by a Settlement Class Member, the Claims Administrator may re-issue settlement checks to the original payee, provided that such re-issued checks will not be negotiable beyond that date that is one hundred eighty (180) calendar days after the date of issuance of the original check to such Settlement Class Member.

**X. OPT-OUTS AND OBJECTIONS**

**10.01 Opting Out of the Settlement.** Any Class Members who wish to exclude themselves from the Settlement Class must complete and return an Exclusion Request Form, which shall contain the information set forth in Exhibit F hereto, to Claims Administrator by mail or via the Settlement website. Exclusion Request Forms must be postmarked or submitted via the Settlement Website by no later than the Opt-Out Deadline.

a. The Claims Administrator shall provide the Parties with copies of all Exclusion Request Forms it receives, and shall provide a list of all Class Members who timely and validly opted out of the settlement in their declaration filed with the Court, as required by Section 11.01. Settlement Class Members who do not properly and timely submit an Exclusion Request Form will be bound by this Agreement and the judgment, including the releases in Section 14 below. If more than 1,200 Class Members opt out, Defendant has the option of voiding this Settlement Agreement and proceeding with the litigation, as provided in Sections 15.02 and 15.03 below.

b. In the Exclusion Request Form, the Class Member must state his or her full name, address, and telephone number, and agree to a statement that he or she wishes to be excluded from the settlement.

c. Any Class Member who submits a valid and timely Exclusion Request Form will not be a Settlement Class Member and shall not be bound by the terms of this Agreement

**10.02** Objections. Any Settlement Class Member who intends to object to the fairness of this settlement must file a written objection with the Court by the Objection Deadline.

In the written objection, the Settlement Class Member must state his or her full name, address, and telephone number, the reasons for his or her objection, and whether he or she intends to appear at the Fairness Hearing on his or her own behalf or through counsel. Any documents supporting the objection must also be attached to the Objection.

**10.03** Any Settlement Class Member who objects may appear at the Fairness Hearing, either in person or through an attorney hired at the Settlement Class Member's own expense, to object to the fairness, reasonableness, or adequacy of this Agreement or the Settlement.

## **XI. FINAL APPROVAL AND JUDGMENT ORDER**

**11.01** No later than fourteen (14) calendar days prior to the Final Approval Hearing, the Claims Administrator shall file with the Court and serve on counsel for all Parties a declaration stating that the Notice required by the Agreement has been completed in accordance with the terms of the Preliminary Approval Order. Class Counsel shall ensure this declaration is filed with the Court.

**11.02** If the Settlement is approved preliminarily by the Court, and all other conditions precedent to the settlement have been satisfied, no later than fourteen (14) calendar days prior to Final Approval Hearing:

a. Class Counsel shall file a motion requesting that the Court enter a Final Approval Order, and a memorandum of points and authorities in support of the motion; and,

b. Counsel for the Class and Defendant may file a memorandum addressing any objections submitted to the Settlement.

**11.03** At the Final Approval Hearing, the Court will consider and determine whether the provisions of this Settlement Agreement should be approved, whether the Settlement should be finally approved as fair, reasonable and adequate, whether any objections to the Settlement should be overruled, whether the fee award and incentive payments to the Class Representatives should be approved, and whether a judgment finally approving the Settlement should be entered.

**11.04** This Settlement Agreement is subject to and conditioned upon the issuance by the Court of a Final Approval Order which is substantially in the form of Exhibit E, or in such form to which the Parties mutually agree. In the event that the Court does not enter a Final Approval Order substantially in the form of Exhibit E, or in a form mutually agreed to by the Parties, then either party may terminate this Settlement Agreement pursuant to Section 15.01.

**XII. FINAL JUDGMENT**

**12.01** The Judgment entered at the Final Approval Hearing shall be deemed final:

a. Thirty (30) calendar days after entry of the Final Judgment approving the Settlement if no document is filed within that time seeking appeal, review or rehearing of the judgment; or

b. If any such document is filed, then five (5) calendar days after the date upon which all appellate and/or other proceedings resulting from such document have been finally terminated in such a manner as to permit the judgment to take effect in substantially the form described in Section 11.04.

**XIII. CONFIRMATORY DISCOVERY**

**13.01** Class Counsel hereby represent that they will conduct targeted, limited discovery to confirm the accuracy of the information regarding the number of class members provided to them during the course of the litigation and the Parties' settlement negotiations. The purpose of that discovery is to confirm the number of Settlement Class Members, as defined in Section 2.33, and the process used to determine that number. This discovery is to be used solely for purposes

of this Settlement Agreement and, consistent with Sections 16.01 and 16.02 below, may not be used for any purpose in the event this Agreement is terminated or is otherwise not fully and finally approved by the Court. Any information or material produced by Defendant in response to the confirmatory discovery described herein that Defendant designates as “CONFIDENTIAL” shall be treated in accordance with the Confidentiality Order entered into in the Action (Dkt. No. 31).

#### **XIV. RELEASE OF CLAIMS**

**14.01 Released Claims.** Plaintiff and each Settlement Class Member, as well as their respective assigns, heirs, executors, administrators, successors and agents, hereby release, resolve, relinquish and discharge each and all of the Released Parties from each of the Released Claims (as defined below). The Settlement Class Members further agree that they will not institute any action or cause of action (in law, in equity or administratively), suits, debts, liens, or claims, known or unknown, fixed or contingent, which they may have or claim to have, in state or federal court, in arbitration, or with any state, federal or local government agency or with any administrative or advisory body, arising from the Released Claims. The release does not apply to Class Members who timely opt-out of the Settlement. “Released Claims” means any and 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), common law or 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 (1) arise out of the Released Parties’ use of an “automatic telephone dialing system” or “artificial or prerecorded voice” to contact or attempt to contact Settlement Class Members via non-

emergency Calls to cellular telephones from April 28, 2011 to January 31, 2016, by Defendant or on behalf of Defendant, to the fullest extent those terms are used, defined or interpreted by the TCPA and relevant regulatory or administrative promulgations and case law, or (2) arise from the administration of this Settlement, including all claims arising from or related to any alleged data breaches, failures to comply with state and federal privacy laws, failures to confirm the proper identify of class members and any other alleged violations of state and federal laws that govern the collection and storage of consumer financial information and the electronic distribution of funds. The Parties expressly agree that any person or entity that is not a party to this Settlement Agreement and receives a release under this Settlement Agreement is an intended third-party beneficiary of this Settlement Agreement.

**14.02** Waiver of Unknown Claims. Without limiting the foregoing, the Released Claims specifically extend to claims that Plaintiff and Settlement Class Members do not know or suspect to exist in their favor at the time that the Settlement and the releases contained therein become effective. This Section constitutes a waiver, without limitation as to any other applicable law, of Section 1542 of the California Civil Code or any similar statute, regulation, rule or ordinance, which provides:

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.

**14.03** Plaintiff and Settlement Class Members understand and acknowledge the significance of these waivers of California Civil Code Section 1542 and similar federal and state statutes, case law, rules or regulations relating to limitations on releases. In connection with such waivers and relinquishment, Plaintiff and the Settlement Class Members acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those facts that they now know or believe to be true with respect to the subject matter of the Settlement

Agreement, but that it is their intention to release fully, finally and forever all Released Claims with respect to the Released Parties, and in furtherance of such intention, the releases of the Released Claims will be and remain in effect notwithstanding the discovery or existence of any such additional or different facts.

**14.04 Covenant Not To Sue.** Plaintiff agrees and covenants, and each Settlement Class Member will be deemed to have agreed and covenanted, not to sue any Released Party with respect to any of the Released Claims, or otherwise to assist others in doing so, and agree to be forever barred from doing so, in any court of law or equity, or any other forum.

**XV. TERMINATION OF AGREEMENT**

**15.01 Either Side May Terminate the Agreement.** Plaintiff and Defendant shall each have the right to unilaterally terminate this Agreement by providing written notice of his, her, their or its election to do so (“Termination Notice”) to all other Parties hereto within ten (10) calendar days of any of the following occurrences:

- a. the Court rejects, materially modifies, materially amends or changes, or declines to preliminarily or finally approve the Settlement Agreement;
- b. an appellate court reverses the Final Approval Order, and the Settlement Agreement is not reinstated without material change by the Court on remand;
- c. any court incorporates into, or deletes or strikes from, or modifies, amends, or changes, the Preliminary Approval Order, Final Approval Order, or the Settlement Agreement in a way that is material, unless such modification or amendment is accepted in writing by all Parties;
- d. the Effective Date does not occur; or
- e. any other ground for termination provided for elsewhere in this Agreement occurs.

**15.02 Termination if Large Number of Opt-Outs.** If, at the conclusion of the Opt-Out

Deadline, more than 1,200 Settlement Class Members have opted out of the Settlement, the Defendant shall have, in its sole and absolute discretion, the option to terminate this Agreement within ten (10) business days after the Opt-Out Deadline.

**15.03** Revert to Status Quo. If either Plaintiff or Defendant terminates this Agreement as provided herein, the Agreement shall be of no force and effect and the Parties' rights and defenses shall be restored, without prejudice, to their respective positions as if this Agreement had never been executed, and any orders entered by the Court in connection with this Agreement shall be vacated. However, any payments made to the Claims Administrator for services rendered to the date of termination shall not be refunded to Defendant.

**XVI. NO ADMISSION OF LIABILITY**

**16.01** Defendant denies any liability or wrongdoing of any kind associated with the alleged claims in the operative complaint. Defendant has denied and continues to deny each and every material factual allegation and all claims asserted against it in the Action. Nothing herein shall constitute an admission by Defendant of wrongdoing or liability, or of the truth of any allegations in the Action. Nothing herein shall constitute an admission by Defendant that the Action is properly brought on a class or representative basis, or that a class may be certified, other than for settlement purposes. To this end, the settlement of the Action, the negotiation and execution of this Agreement, and all acts performed or documents executed pursuant to or in furtherance of the Settlement: (i) are not and shall not be deemed to be, and may not be used as, an admission or evidence of any wrongdoing or liability on the part of Defendant or of the truth of any of the allegations in the Action; (ii) are not and shall not be deemed to be, and may not be used as an admission or evidence of any fault or omission on the part of Defendant in any civil, criminal or administrative proceeding in any court, arbitration forum, administrative agency or other tribunal; and, (iii) are not and shall not be deemed to be and may not be used as an admission of the appropriateness of these or similar claims for class certification.



**16.02** Pursuant to Federal Rules of Evidence Rule 408 and California Evidence Code Sections 1119 and 1152, and any similar provisions under the laws of other states, neither this Agreement nor any related documents filed or created in connection with this Agreement shall be admissible in evidence in any proceeding, except as necessary to approve, interpret or enforce this Agreement.

**XVII. MISCELLANEOUS**

**17.01 Entire Agreement.** This Agreement and the exhibits hereto constitute the entire agreement between the Parties. No representations, warranties or inducements have been made to any of the Parties, other than those representations, warranties, and covenants contained in this Agreement.

**17.02 Representation by Counsel.** Counsel for Plaintiff represents and warrants that it is not currently aware of any individuals or entities seeking representation, and is not currently retained to represent any individuals or entities, other than Plaintiff, with claims against the Released Parties for violating the TCPA or any other state or federal consumer protection laws.

**17.03 Mutual Non-Disparagement.** The Parties, Dun & Bradstreet, Inc. and The Dun & Bradstreet Corporation, only to the extent they or their employees have knowledge of the Action, agree that they will not disparage or defame each other's performance and conduct, or the firms' and companies' directors, officers, members, agents or employees for any and all reasons that arise out of or relate in any way to the Action, or any and all facts and allegations that gave rise to the Action.

**17.04 Governing Law.** This Agreement shall be governed by the laws of the State of California.

**17.05 No Construction Against Drafter.** This Agreement was drafted jointly by the Parties and, in construing and interpreting this Agreement, no provision of this Agreement shall be construed or interpreted against any Party based upon the contention that this Agreement or a

portion of it was purportedly drafted or prepared by that Party.

**17.06** Resolution of Disputes. The Parties shall cooperate in good faith in the administration of this Settlement Agreement. Any unresolved dispute regarding the administration of this Agreement shall be decided by the Court, or by a mediator upon agreement of the Parties.

**17.07** Counterparts. This Agreement may be signed in counterparts and the separate signature pages executed by the Parties and their counsel may be combined to create a document binding on all of the Parties and together shall constitute one and the same instrument.

**17.08** Time Periods. The time periods and dates described herein are subject to Court approval and may be modified upon order of the Court or written stipulation of the Parties without further notice to the Settlement Class members.

**17.09** Authority. Each person executing this Settlement Agreement on behalf of any of the Parties hereto represents that such person has the authority to so execute this Agreement.

**17.10** No Oral Modifications. This Agreement may not be amended, modified, altered or otherwise changed in any manner, except by a writing signed by a duly authorized agent of Defendant and Plaintiffs, and approved by the Court.

**17.11** Notices. Unless otherwise stated herein, any notice required or provided for under this Agreement shall be in writing and may be sent by electronic mail, fax or hand delivery, postage prepaid, as follows:

If to Class Counsel:

Daniel M. Hutchinson, Esq.  
Lief Cabraser Heimann & Bernstein, LLP  
275 Battery Street, 29th Floor  
San Francisco, CA 94111-3339  
Telephone: (415) 956-1000  
dhutchinson@lchb.com

If to counsel for DBCC:

Isaac J. Colunga  
Ice Miller LLP

200 West Madison Street, Suite 3500  
Chicago, IL 60606-3417  
Telephone: (312) 726-7157  
isaac.colunga@icemiller.com

DATED: September 8, 2016

ICE MILLER, LLP

By 

Isaac J. Colunga  
Attorneys for Defendant Dun & Bradstreet  
Corporation

DATED: September 8, 2016

LIEFF CABRASER HEIMANN & BERNSTEIN,  
LLP

By 

Daniel M. Hutchinson  
Attorneys for Plaintiff  
Jeffrey A. Thomas

DATED: September 8, 2016

SIRI & GLIMSTAD LLP

By 

Aaron Siri  
Attorneys for Plaintiff  
Jeffrey A. Thomas

# **EXHIBIT A**



**Claim Form**

Your claim form must be postmarked by \_\_\_\_\_ for your claim to be accepted.  
(This claim form should only be used if a claim is being mailed in and is not being filed online at www.CredibilityTCPASettlement.com or through the telephone claim filing services at 1-XXX-XXX-XXXX.)

**(1) Subscriber OR Business Name**

First Name	MI	Last Name
<input type="text"/>	<input type="text"/>	<input type="text"/>

Business Name
<input type="text"/>

**(2) Cellular Phone Number(s)**

Cellular Telephone Number 1	<input type="text"/>	-	<input type="text"/>	-	<input type="text"/>
Cellular Telephone Number 2	<input type="text"/>	-	<input type="text"/>	-	<input type="text"/>
Cellular Telephone Number 3	<input type="text"/>	-	<input type="text"/>	-	<input type="text"/>
Cellular Telephone Number 4	<input type="text"/>	-	<input type="text"/>	-	<input type="text"/>
Cellular Telephone Number 5	<input type="text"/>	-	<input type="text"/>	-	<input type="text"/>

**(3) Eligibility Confirmation**

I certify that between April 28, 2011 and January 31, 2016, the Cellular Phone Number(s) listed above received nonemergency call(s) from or on behalf of Dun & Bradstreet Emerging Business Corp., Dun & Bradstreet Credibility Corp., Credibility Corp. and/or Brad Acquisition Corp. through the use of an automatic telephone dialing system, which I did not consent to receive.

**(4) Distribution Selection**

To receive a secure Digital Disbursement through ClearXchange, please enter *either* the Mobile Phone Number *or* Email Address you used to sign up for ClearXchange. Please do **not** provide both the Mobile Phone Number and Email Address as this could cause an issue with your Digital Disbursement. If you would like to receive a digital disbursement but have not previously signed up with ClearXchange, you can sign up on the ClearXchange website at www.clearxchange.com/payments/get-started. **If you do not elect Digital Disbursement or if the information you provide below is invalid, you will receive payment via check.**

Mobile Phone Number
<input type="text"/>

**OR**

Email

<input type="text"/>
----------------------

Claim forms must be mailed and postmarked to the following address by \_\_\_\_\_.

**Credibility TCPA Settlement Claims Administrator  
P.O. Box xxxxx  
Providence, RI 02940-xxxx**

\*SGT«ClaimID»\*

«ClaimID»

DBTPOC02



# **EXHIBIT B**

Legal Notice

**If you received a non-emergency call from or on behalf of Dun & Bradstreet Credibility Corp. to a cellular telephone through the use of an automatic telephone dialing system, you may be eligible to receive a payment from a class action settlement.**

**[SPANISH TRANSLATION HERE]**

*Si desea recibir esta notificación en español, llámenos o visite nuestra página web.*

A \$10,500,000 Settlement has been reached in a putative class action lawsuit alleging that Dun & Bradstreet Credibility Corp. (“DBCC”) used an automatic telephone dialing system to call cell phones without the prior express consent of the recipients. DBCC denies that it did anything wrong and the Court has not decided who is right.

**Who Is Included?** The Court decided that the Settlement Class includes all individuals who:

between April 28, 2011 and January 31, 2016, received a nonemergency Call from or on behalf of Dun & Bradstreet Credibility Corp., Dun & Bradstreet Emerging Businesses Corp., Credibility Corp., or Brad Acquisition Corp. (collectively, the “Related Entities”) to a cellular telephone through the use of an automatic telephone dialing system.

**What Are the Settlement Terms?** DBCC and the Related Entities have put in place certain practice changes designed to prevent violations of the TCPA’s provisions on dialing cell phones using an automatic telephone dialing system. A Settlement Fund of \$10,500,000 has been established to pay valid claims, attorneys’ fees and costs, a service award, and settlement administration costs and expenses. Any remaining monies totaling \$200,000 or less from uncashed settlement checks will be paid to a non-profit charity selected by the parties and approved by the Court.

**How Can I Get a Payment?** To get a payment in the form of a check or electronic payment, you must submit a claim. You can submit your claim online, through the settlement hotline, or by mail. It is estimated that payments will be between \$60 and \$120. The amount of the final cash payment will depend on the total number of valid and timely claims filed by all Class Members. The claim deadline is \_\_\_\_\_.

**Your Other Options.** If you do not want to be legally bound by the Settlement, you must exclude yourself by \_\_\_\_\_. If you do not exclude yourself, you will release your claims against DBCC and the Related Entities. You may object to the Settlement by \_\_\_\_\_. The Detailed Notice available on the website explains how to exclude yourself or object. The Court will hold a Hearing on \_\_\_\_\_ to consider whether to approve the Settlement, a request for attorneys’ fees of not more than 30% of the Settlement Fund, and a service payment of \$10,000 to one Class Representative. You may appear at the hearing, either yourself or through an attorney hired by you, but you don't have to. **For more information, call or visit the website.**

**[www.CredibilityTCPASettlement.cc](http://www.CredibilityTCPASettlement.cc)**

**1-###-###-####**

# **EXHIBIT C**



United States District Court for the Central District of California

**If you received a non-emergency call from or on behalf of Dun & Bradstreet Credibility Corp. to a cellular telephone through the use of an automatic telephone dialing system, you may be eligible to receive a payment from a class action settlement.**

**[SPANISH TRANSLATION HERE]**

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

- Plaintiffs brought a lawsuit alleging that Dun & Bradstreet Credibility Corp. (“DBCC”) violated the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227, *et seq.* by using an automatic telephone dialing system to place non-emergency calls to cell phones without the recipients’ prior express consent. DBCC denies the allegations in the lawsuit.
- A settlement has been reached in this case and affects individuals who:
  - between April 28, 2011 and January 31, 2016, received a nonemergency Call from or on behalf of Dun & Bradstreet Credibility Corp., Dun & Bradstreet Emerging Businesses Corp., Credibility Corp., or Brad Acquisition Corp. (collectively, the “Related Entities”) to a cellular telephone through the use of an automatic telephone dialing system.
- The Settlement, if approved, would provide \$10,500,000 to pay any and all claims from those who received any of the above-described calls from DBCC or the Related Entities, as well as to pay Plaintiff’s attorneys’ fees, costs, a service award for the Representative Plaintiff, and the administrative costs of the settlement; it avoids the further cost and risk associated with continuing the lawsuits; it pays money to recipients of the calls who make valid and timely claims; and it releases DBCC and the Related Entities from further liability.
- DBCC and the Related Entities have put in place certain practice changes designed to prevent violations of the TCPA’s provisions on dialing cell phones using an automatic telephone dialing system.
- **Your legal rights are affected whether you act or don’t act. Read this notice carefully.**
- **On the website, [www.CredibilityTCPASettlement.com](http://www.CredibilityTCPASettlement.com), there is a complete notice of the settlement in Spanish. En el sitio web, [www.CredibilityTCPASettlement.com](http://www.CredibilityTCPASettlement.com), hay una notificación completa del acuerdo en Español.**

**Questions? Call 1-XXX-XXX-XXXX or visit [www.CredibilityTCPASettlement.com](http://www.CredibilityTCPASettlement.com)**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
<b>Submit a Claim Form</b>	This is the only way to get a payment from the Settlement. You can submit a valid and timely claim form online at <a href="http://www.CredibilityTCPASettlement.com">www.CredibilityTCPASettlement.com</a> or by mail to Credibility TCPA Settlement Claims Administrator, P.O. Box xxxxxx, Providence, RI 02940-xxxx or by calling the toll-free number, [1-###-###-####]. If you fail to do so, you will not receive a settlement payment.
<b>Do Nothing</b>	Get no payment but remain in the Class. You will be bound by the judgment against DBCC and you will release claims you may have against DBCC and the Related Entities.
<b>Exclude Yourself OR “Opt Out” of the Settlement</b>	You are not required to participate in the Settlement. You have the right to exclude yourself from the Class and the Settlement by taking certain steps outlined in this Notice.
<b>Object</b>	Write to the Court about why you believe the Settlement is unfair.
<b>Go to a Hearing</b>	Ask to speak in Court about the fairness of the Settlement.

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. Please be patient.

**WHAT THIS NOTICE CONTAINS**

**BASIC INFORMATION.....PAGE 4**

1. Why is there a notice?
2. What is this class action lawsuit about?
3. Why is there a Settlement?

**WHO IS IN THE SETTLEMENT ..... PAGE 4**

4. How do I know if I am part of the Settlement?

**THE SETTLEMENT BENEFITS - WHAT YOU GET..... PAGE 4**

5. What does the Settlement provide?

**HOW YOU GET A PAYMENT .....PAGE 5**

6. How and when can I get a payment?
7. What am I giving up to get a payment or stay in the Class?

**EXCLUDING YOURSELF FROM THE SETTLEMENT ..... PAGE 6**

8. How do I exclude myself from the Settlement?

**THE LAWYERS REPRESENTING YOU..... PAGE 7**

9. Do I have a lawyer in this case?
10. How will the lawyers and class representatives be paid?

**OBJECTING TO THE SETTLEMENT ..... PAGE 8**

11. How do I tell the Court that I do not think the Settlement is fair?

**THE COURT'S FAIRNESS HEARING..... PAGE 9**

12. When and where will the Court decide whether to approve the Settlement?
13. May I speak at the hearing?

**IF YOU DO NOTHING ..... PAGE 8**

14. What happens if I do nothing at all?

**GETTING MORE INFORMATION..... PAGE 9**

15. How do I get more information?

## BASIC INFORMATION

### 1. Why is there a notice?

A Court authorized this Notice because you have a right to know about a proposed Settlement of this class action lawsuit, and about all of your options, before the Court decides whether to approve the Settlement. If the Court approves the Settlement, an administrator appointed by the Court will make the payments that the Settlement allows. Because your rights will be affected by this Settlement, it is extremely important that you read this Notice carefully.

If you received a postcard Notice, it is because according to DBCC's records, you may have received a non-emergency call from or on behalf of DBCC or the Related Entities to a cellular telephone through the use of an automatic telephone dialing system between April 28, 2011, and January 31, 2016. The Court in charge of the case is the United District Court for the Central District of California, and the case is known as *Thomas v. Dun & Bradstreet Credibility Corp.*, U.S.D.C., Central District of California Case No. CV15-03194 BRO (GJSx). The person who sued on behalf of the class is called the Plaintiff, and the company he sued, Dun & Bradstreet Credibility Corp. ("DBCC"), is called the Defendant.

### 2. What is this class action lawsuit about?

A class action is a lawsuit in which the claims and rights of many people are decided in a single court proceeding. One or more representative plaintiffs, also known as "class representatives," assert claims on behalf of the entire class.

The Representative Plaintiff filed this case against Defendant alleging that DBCC violated the Telephone Consumer Protection Act ("TCPA") by using an automatic telephone dialing system to call cell phones without the prior express consent of the recipients.

DBCC denies that it did anything wrong, or that this case is appropriate for treatment as a class action.

### 3. Why is there a Settlement?

The Court did not decide in favor of the Plaintiff or Defendant. Both sides agreed to a settlement instead of going to trial. That way, they avoid the cost of a trial, and the people affected will get compensation. The Representative Plaintiff and his attorneys think the Settlement is best for all Class Members.

## WHO IS IN THE SETTLEMENT

### 4. How do I know if I am part of the Settlement?

The Settlement provides relief for all Class Members, who are described as individuals who between April 28, 2011 and January 31, 2016, received a non-emergency Call from or on behalf of DBCC or the Related Entities, to a cellular telephone through the use of an automatic telephone dialing system. Excluded from the Class are Defendant; its parent companies, affiliates or subsidiaries, or any employees thereof, and any entities in which any of such companies has a controlling interest; the judge or magistrate judge to whom the Action is assigned; any member of those judges' staffs and immediate families; and Plaintiff's counsel.

If you have questions about whether you are a Class Member, or are still not sure whether you are included, you can call 1-###-###-#### or visit [www.CredibilityTCPASettlement.com](http://www.CredibilityTCPASettlement.com) for more information.

Questions? Call 1-XXX-XXX-XXXX or visit [www.CredibilityTCPASettlement.com](http://www.CredibilityTCPASettlement.com)

## THE SETTLEMENT BENEFITS - WHAT YOU GET

### 5. What does the Settlement provide?

DBCC has agreed to pay a total settlement amount of \$10,500,000 which will be used to create a Settlement Fund to pay Settlement Awards to Class Members, Plaintiff's attorney fees, any service award to the Representative Plaintiff, costs, expenses, and settlement administration.

Any residual amount under \$200,000 remaining after all the payments included in the Settlement are made will be donated to a nonprofit selected by the parties and approved by the Court. Additionally, DBCC has put in place certain practice changes with the purpose of ensuring that it prevents violations of the TCPA's provisions on dialing cell phones using an automatic telephone dialing system.

## HOW YOU GET A PAYMENT

### 6. How and when can I get a payment?

Each Class Member who submits a valid and timely Claim Form will receive a Settlement Award.

A Settlement Award is a cash payment that will be issued by check or electronic transfer, whichever you choose. It is estimated that Eligible Class Members' cash award payment will be between \$60 and \$120 per claim, but the final cash payment amount will depend on the total number of valid and timely claims filed by all Class Members.

Claims may be submitted **by no later than [DATE]** electronically at [www.CredibilityTCPASettlement.com](http://www.CredibilityTCPASettlement.com), or by calling the toll-free number 1-###-###-####, or by mail to:

Credibility TCPA Settlement Claims Administrator  
P.O. Box xxxxx  
Providence, RI 02940-xxxx

The Court will hold a hearing on \_\_\_\_\_, \_\_\_ to decide whether to approve the Settlement. Please be patient.

### 7. What am I giving up to get a payment or stay in the Class?

If you are a Class Member, unless you exclude yourself, that means that you can't sue, continue to sue, or be part of any other lawsuit against DBCC or the Related Entities about the legal issues in *this* case and all of the decisions and judgments by the Court will bind you.

For non-emergency calls made using an automatic telephone dialing system, without the prior express consent of the called party, the TCPA provides for damages of \$500 per call, or \$1,500 for willful violations. However, DBCC has denied that it made any illegal calls to anyone, and in any future lawsuit it will have a full range of potential defenses, including that it had prior express consent to make the calls if the business provided its cellular telephone number to DBCC at any time, and that certain customer agreements provided DBCC with consent to make the calls. In addition, please note that the TCPA does not provide for attorneys' fees to prevailing individual plaintiffs.

If you file a Claim Form for benefits or do nothing at all, you will release DBCC and the Related Entities from any liability for them.

Remaining in the Class means that you, as well as your respective assigns, heirs, executors, administrators,

**Questions? Call 1-XXX-XXX-XXXX or visit [www.CredibilityTCPASettlement.com](http://www.CredibilityTCPASettlement.com)**

successors and agents, will release, resolve, relinquish and discharge DBCC, the Related Entities, The Dun & Bradstreet Corporation, Dun & Bradstreet, Inc., and any third party vendors making calls to settlement Class Members on behalf of the Related Entities from any and 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), common law or 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 the DBCC's or the Related Entities' use of an "automatic telephone dialing system" or "artificial or prerecorded voice" to contact or attempt to contact Settlement Class Members via non-emergency Calls to cellular telephones from April 28, 2011 to January 31, 2016, to the fullest extent those terms are used, defined or interpreted by the TCPA and relevant regulatory or administrative promulgations and case law, or (2) arise from the administration of this Settlement. Remaining in the Class also means that you further agree that you will not institute any action or cause of action (in law, in equity or administratively), suits, debts, liens, or claims, known or unknown, fixed or contingent, which you may have or claim to have, in state or federal court, in arbitration, or with any state, federal or local government agency or with any administrative or advisory body, arising from or reasonably related to the Released Claims.

The Settlement Agreement (available at the website) provides more detail regarding the release and describes the Released Claims with specific descriptions in necessary, accurate legal terminology, so read it carefully. You can talk to the law firms representing the Class listed in Question 9 for free or you can, at your own expense, talk to your own lawyer if you have any questions about the Released Parties or the Released Claims or what they mean.

The release does not apply to Class Members who timely opt-out of the Settlement.

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

If you don't want to participate in this Settlement, then you must take the steps below to exclude yourself from the Settlement.

#### **8. How do I exclude myself from the Settlement?**

To exclude yourself from the Settlement, you must submit your Exclusion Request Form electronically at [www.CredibilityTCPASettlement.com](http://www.CredibilityTCPASettlement.com) or mail your Exclusion Request Form **postmarked no later than** \_\_\_\_\_ **[DATE]**, to:

Credibility TCPA Settlement Claims Administrator  
P.O. Box xxxxx  
Providence, RI 02940-xxxx

If you ask to be excluded, you will not get any Settlement Award, and you cannot object to the Settlement. You will not be legally bound by anything that happens in this lawsuit.

### **THE LAWYERS REPRESENTING YOU**

#### **9. Do I have a lawyer in this case?**

The Court appointed the following law firms to represent you and other Class Members: Lief Cabraser Heimann & Bernstein, LLP, Siri & Glimstad, LLP, and Parisi & Havens, LLP.

These lawyers are called Class Counsel. You will not be charged for these lawyers' services. If you want to be represented by your own lawyer, you may hire one at your own expense.

**Questions? Call 1-XXX-XXX-XXXX or visit [www.CredibilityTCPASettlement.com](http://www.CredibilityTCPASettlement.com)**

**10. How will the lawyers and class representatives be paid?**

Class Counsel will ask the Court to approve payment of no more than \$3,150,000 (not more than 30% of the Settlement Fund) to compensate them for expenses and for attorneys' fees for investigating the facts, litigating the case, and negotiating the Settlement. Class Counsel will also request an award of one service payment of \$10,000 to the Class Representative, in compensation for his time and effort. The Court may award less than these amounts. These payments, along with the costs of administering the Settlement, will be made out of the Settlement Fund.

Any objection to Class Counsel's application for attorneys' fees and costs may be filed, and must be postmarked, no later than \_\_\_\_\_ which is 30 days following the filing of Class Counsel's motion for an award of attorneys' fees and costs.

**OBJECTING TO THE SETTLEMENT**

You can tell the Court that you do not agree with the Settlement or some part of it.

**11. How do I tell the Court that I do not think the Settlement is fair?**

You can tell the Court that you don't agree with the Settlement or some part of it. If you are a Class Member, you can object to the Settlement if you do not think the Settlement is fair. You can state reasons why you think the Court should not approve it. The Court will consider your views. To object, you must send a letter saying that you object to the proposed Settlement in *Thomas v. Dun & Bradstreet Credibility Corp.*, No. CV15-03194 BRO (GJSx) (C.D. Cal.). Be sure to include your full name, address, telephone number, the reasons you object to the Settlement and whether you intend to appear at the fairness hearing on your own behalf or through counsel. **Your objection to the Settlement must be postmarked no later than \_\_\_\_\_.**

The objection must be mailed to:

Credibility TCPA Settlement Claims Administrator  
P.O. Box xxxxx  
Providence, RI 02940-xxxx

**THE FAIRNESS HEARING**

**12. When and where will the Court decide whether to approve the Settlement?**

The Court will hold a hearing to decide whether to approve the Settlement. This Fairness Hearing will be held at \_\_\_\_\_ on \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ at the United States District Court for the Central District of California, 312 North Spring Street, Los Angeles, California, Courtroom 14, Spring Street Floor. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check the website for updates. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate, and whether to award attorneys' fees, expenses, and service awards as described above, and in what amounts. If there are objections, the Court will consider them. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long it will take the Court to issue its decision. It is not necessary for you to appear at this hearing, but you may attend at your own expense.

**13. May I speak at the hearing?**

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that you intend to appear at the Fairness Hearing in *Thomas v. Dun & Bradstreet Credibility Corp.*,

**Questions? Call 1-XXX-XXX-XXXX or visit [www.CredibilityTCPASettlement.com](http://www.CredibilityTCPASettlement.com)**

No. CV15-03194 BRO (GJSx) (C.D. Cal.). Be sure to include your full name, address, and telephone number. Your letter stating your notice of intention to appear must be postmarked no later than \_\_\_\_\_, \_\_\_ and be sent to the Clerk of the Court. You cannot speak at the hearing if you excluded yourself.

## **IF YOU DO NOTHING**

### **14. What happens if I do nothing at all?**

If you do nothing, and are a Class Member, you will not receive a payment after the Court approves the Settlement. In order to receive a payment, you must submit a claim form. You will be bound by the judgment against DBCC and you will release claims you may have against DBCC and the Related Entities.

**Questions? Call 1-XXX-XXX-XXXX or visit [www.CredibilityTCPASettlement.com](http://www.CredibilityTCPASettlement.com)**



## GETTING MORE INFORMATION

### 15. How do I get more information?

This Notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement by calling the Claims Administrator toll-free at 1-###-###-####, writing to: Credibility TCPA Settlement Claims Administrator, P.O. Box xxxxx, Providence, RI 02940-xxxx; or visiting the website at [www.CredibilityTCPASettlement.com](http://www.CredibilityTCPASettlement.com), where you will find answers to common questions about the Settlement, a claim form, plus other information to help you determine whether you are a Class Member and whether you are eligible for a payment.

On the website, [www.CredibilityTCPASettlement.com](http://www.CredibilityTCPASettlement.com), there is a complete notice of the settlement in Spanish. En el sitio web, [www.CredibilityTCPASettlement.com](http://www.CredibilityTCPASettlement.com), hay una notificación completa del acuerdo en Español.

**Questions? Call 1-XXX-XXX-XXXX or visit [www.CredibilityTCPASettlement.com](http://www.CredibilityTCPASettlement.com)**

# **EXHIBIT D**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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)

**[PROPOSED] 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**

1  
2 Subject to Court approval, Plaintiff Jeffrey A. Thomas (“Plaintiff” or  
3 “Settlement Class Representative”) and Dun & Bradstreet Credibility Corp.  
4 (“DBCC,” or “Defendant”) entered into a Settlement Agreement dated September 8,  
5 2016, in proposed settlement of this Action (together with its exhibits, the  
6 “Agreement”).

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

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

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

25 2. Class Certification for Settlement Purposes Only. Pursuant to Federal  
26 Rule of Civil Procedure 23(c), the Court conditionally certifies, for settlement  
27 purposes only, the following Settlement Class: All persons within the United States  
28 who, between April 28, 2011 and January 31, 2016, received a nonemergency Call

1 from or on behalf of Dun & Bradstreet Emerging Businesses Corp., or its  
2 predecessor entities, Dun & Bradstreet Credibility Corp., Credibility Corp. and  
3 Brad Acquisition Corp. to a cellular telephone through the use of an automatic  
4 telephone dialing system. Excluded from the Class are Defendant; its parent  
5 companies, affiliates or subsidiaries, or any employees thereof, and any entities in  
6 which any of such companies has a controlling interest; the judge or magistrate  
7 judge to whom the Action is assigned; any member of those judges' staffs and  
8 immediate families; and Plaintiff's counsel.

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

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

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

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

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

21 e. For purposes of determining whether the Settlement Agreement  
22 is fair, reasonable, and adequate, common questions of law and fact appear to  
23 predominate over questions affecting only individual persons in the Settlement  
24 classes. Accordingly, the Settlement Class appears to be sufficiently cohesive to  
25 warrant settlement by representation; and

26 f. For purposes of settlement, certification of the Settlement Class  
27 appears to be superior to other available methods for the fair and efficient  
28 settlement of the claims of the Settlement Class.

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

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

6           6.     Settlement Hearing. A final approval hearing (the “Settlement  
7 Hearing”) shall be held before the Hon. Beverly Reid O’Connell of the Central  
8 District of California, located at 312 North Spring Street, Los Angeles, California,  
9 Courtroom 14, on \_\_\_\_\_, 2016, at \_\_\_\_\_, as set forth in the notice to  
10 the Settlement Class (described in Paragraph 7 below), to determine whether the  
11 Settlement is fair, reasonable, and adequate and should be approved. Papers in  
12 support of final approval of the Settlement, the incentive award to Plaintiff, and  
13 Class Counsel’s application for an award of attorneys’ fees, costs, and expenses  
14 (the “Fee Application”) shall be filed with the Court according to the schedule set  
15 forth in Paragraph 12 below. The Settlement Hearing may be postponed,  
16 adjourned, or continued by order of the Court without further notice to the  
17 Settlement Class. After the Settlement Hearing, the Court may enter a settlement  
18 order and final judgment in accordance with the Settlement Agreement that will  
19 adjudicate the rights of the Settlement Class Members with respect to the Released  
20 Claims being settled.

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

23           a.     Mail or E-mail Notice. The Claims Administrator shall provide  
24 individual notice via first class mail to all persons or businesses in the Settlement  
25 Class for which DBCC has contact information, and via email to the extent the  
26 Claims Administrator is able to obtain the electronic mail addresses of Class  
27 Members. The Claims Administrator shall use the Notice Database to obtain each  
28 Class Member’s last known address where available. The Claims Administrator

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

9  
10 b. Publication Notice. By the Settlement Notice Date, the Claims  
11 Administrator will design and publish a cost-effective publication notice program,  
12 by internet rather than print notice, designed to reach businesses with web  
13 impressions targeting cell phone owners.

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

24 d. FAQ Notice. The Claims Administrator shall also post on the  
25 website a formal Frequently Asked Questions (“FAQ”) Notice which shall set forth  
26 in a question and answer format the details of the settlement, and the rights of Class  
27 Members to participate in the Settlement, exclude themselves or object to the  
28 settlement.

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

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

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

22 10. Exclusion from the Settlement Class.

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

27 b. Exclusion requests must state the Class Member's full name,  
28 address, and telephone number. Further, the Class Member must include a



1 statement in the written request for exclusion that he or she wishes to be excluded  
2 from the Settlement. Any Class Member who submits a valid and timely request  
3 for exclusion shall not be bound by the terms of the Settlement.

4 c. In the event that the number of valid opt-out requests exceeds  
5 1,200 or more persons, DBCC in its sole discretion, may terminate the Settlement  
6 within ten (10) business days after the Opt-Out deadline. In the event that the  
7 Settlement is terminated pursuant to this provision, the Parties will be returned to  
8 the status quo ante as if no settlement had been negotiated or entered into.

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

12 11. Objections to the Settlement.

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

25 b. Objection Requirements. In the written objection, the  
26 Settlement Class Member must state his or her full name, address, and telephone  
27 number, the reasons for his or her objection, and whether he or she intends to  
28

1 appear at the fairness hearing on his or her own behalf or through counsel. Any  
2 documents supporting the objection must also be attached to the Objection.

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

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

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

17 a. 30 business days of entry of this Order: Deadline to provide  
18 Class Notice (the "Class Notice Date");

19 b. 60 calendar days after the Class Notice Date: Last day to Object  
20 or Opt-Out;

21 c. 90 calendar days after the Class Notice Date: Last day to submit  
22 a Claim Form; and

23 \_\_\_\_\_: Final Approval Hearing.

24

25 Dated: \_\_\_\_\_

26

27

28

By: \_\_\_\_\_  
HON. BEVERLY REID O'CONNELL

# **EXHIBIT E**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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)

**[PROPOSED] FINAL JUDGMENT AND  
ORDER OF DISMISSAL**

Judge: Hon. Beverly Reid O'Connell

**ORDER**

1  
2 The Court having held a Final Approval Hearing on \_\_\_\_\_, notice  
3 of the Final Approval Hearing having been duly given in accordance with this  
4 Court’s Order (1) Conditionally Certifying a Settlement Class, (2) Preliminarily  
5 Approving Class Action Settlement, (3) Approving Notice Plan, and (4) Setting  
6 Final Approval Hearing (“Preliminary Approval Order”), and having considered all  
7 matters submitted to it at the Final Approval Hearing and otherwise, and finding no  
8 just reason for delay in entry of this Final Judgment and good cause appearing  
9 therefore,

10 It is hereby ORDERED, ADJUDGED AND DECREED as follows:

11 1. The Settlement Agreement dated September 8, 2016, including its  
12 exhibits (the “Settlement Agreement”), and the definition of words and terms  
13 contained therein are incorporated by reference in this Order. The terms of this  
14 Court’s Preliminary Approval Order are also incorporated by reference in this  
15 Order.

16 2. This Court has jurisdiction over the subject matter of the Action and  
17 over the Parties, including all members of the following Settlement Class certified  
18 for settlement purposes in this Court’s Preliminary Approval Order:

19 SETTLEMENT CLASS: All persons within the United  
20 States who, between April 28, 2011 and January 31, 2016,  
21 received a nonemergency Call from or on behalf of Dun  
22 & Bradstreet Emerging Businesses Corp., or its  
23 predecessor entities, Dun & Bradstreet Credibility Corp.,  
24 Credibility Corp. and Brad Acquisition Corp. to a cellular  
25 telephone through the use of an automatic telephone  
26 dialing system. Excluded from the Class are Defendant;  
27 its parent companies, affiliates or subsidiaries, or any  
28 employees thereof, and any entities in which any of such

1 companies has a controlling interest; the judge or  
2 magistrate judge to whom the Action is assigned; any  
3 member of those judges' staffs and immediate families;  
4 and Plaintiff's counsel.

5 3. The Court hereby finds that the Settlement Agreement is the product of  
6 arm's-length settlement negotiations between the Plaintiff and Class Counsel, and  
7 DBCC.

8 4. The Court hereby finds and concludes that Class Notice was  
9 disseminated to members of the Settlement Class in accordance with the terms set  
10 forth in Section VIII of the Settlement Agreement and that Class Notice and its  
11 dissemination were in compliance with this Court's Preliminary Approval Order.

12 5. The Court further finds and concludes that the Class Notice and claims  
13 submission procedures set forth in Sections VIII & IX of the Settlement Agreement  
14 fully satisfy Rule 23 of the Federal Rules of Civil Procedure and the requirements  
15 of due process, were the best notice practicable under the circumstances, provided  
16 individual notice to all members of the Settlement Class who could be identified  
17 through reasonable effort, and support the Court's exercise of jurisdiction over the  
18 Settlement Class as contemplated in the Settlement and this Order.

19 6. This Court hereby finds and concludes that the notice provided to the  
20 appropriate State and federal officials pursuant to 28 U.S.C. § 1715 fully satisfied  
21 the requirements of that statute.

22 7. The Court hereby finally approves the Settlement Agreement and the  
23 Settlement contemplated thereby, and finds that the terms constitute, in all respects,  
24 a fair, reasonable, and adequate settlement as to all Settlement Class Members in  
25 accordance with Rule 23 of the Federal Rules of Civil Procedure, and directs its  
26 consummation pursuant to its terms and conditions.

27 8. This Court hereby dismisses, with prejudice, without costs to any  
28 party, except as expressly provided for in the Settlement Agreement, the Action.

1           9.     Upon Final Approval (including, without limitation, the exhaustion of  
2 any judicial review, or requests for judicial review, from this Final Judgment and  
3 Order of Dismissal), the Plaintiff and each and every one of the Settlement Class  
4 Members unconditionally, fully, and finally releases and forever discharges the  
5 Released Parties from the Released Claims. In addition, any rights of the  
6 Settlement Class representative and each and every one of the Settlement Class  
7 Members to the protections afforded under Section 1542 of the California Civil  
8 Code and/or any other similar, comparable, or equivalent laws, are terminated.

9           10.    Each and every Settlement Class Member, and any person actually or  
10 purportedly acting on behalf of any Settlement Class Member(s), is hereby  
11 permanently barred and enjoined from commencing, instituting, continuing,  
12 pursuing, maintaining, prosecuting, or enforcing any Released Claims (including,  
13 without limitation, in any individual, class or putative class, representative or other  
14 action or proceeding), directly or indirectly, in any judicial, administrative, arbitral,  
15 or other forum, against the Released Parties. This permanent bar and injunction is  
16 necessary to protect and effectuate the Settlement Agreement, this Final Judgment  
17 and Order of Dismissal, and this Court's authority to effectuate the Settlement  
18 Agreement, and is ordered in aid of this Court's jurisdiction and to protect its  
19 judgments.

20           11.    The Settlement Agreement (including, without limitation, its exhibits),  
21 and any and all negotiations, documents, and discussions associated with it, shall  
22 not be deemed or construed to be an admission or evidence of any violation of any  
23 statute, law, rule, regulation or principle of common law or equity, of any liability  
24 or wrongdoing, by DBCC or the entities listed in Paragraph 2 above, or of the truth  
25 of any of the claims asserted by Plaintiff in the Action, and evidence relating to the  
26 Settlement Agreement shall not be discoverable or used, directly or indirectly, in  
27 any way, whether in the Action or in any other action or proceeding, except for  
28

1 purposes of enforcing the terms and conditions of the Settlement Agreement, the  
2 Preliminary Approval Order, and/or this Order.

3 12. If for any reason the Settlement terminates or Final Approval does not  
4 occur, then certification of the Settlement Class shall be deemed vacated. In such  
5 an event, the certification of the Settlement Class for settlement purposes shall not  
6 be considered as a factor in connection with any subsequent class certification  
7 issues, and the Parties shall return to the status quo ante in the Action, without  
8 prejudice to the right of any of the Parties to assert any right or position that could  
9 have been asserted if the Settlement had never been reached or proposed to the  
10 Court.

11 13. In the event that any provision of the Settlement or this Final Judgment  
12 and Order of Dismissal is asserted by DBCC as a defense in whole or in part to any  
13 Claim, or otherwise asserted (including, without limitation, as a basis for a stay) in  
14 any other suit, action, or proceeding brought by a Settlement Class Member or any  
15 person actually or purportedly acting on behalf of any Settlement Class Member(s),  
16 that suit, action or other proceeding shall be immediately stayed and enjoined until  
17 this Court or the court or tribunal in which the claim is pending has determined any  
18 issues related to such defense or assertion. Solely for purposes of such suit, action,  
19 or other proceeding, to the fullest extent they may effectively do so under  
20 applicable law, the Parties irrevocably waive and agree not to assert, by way of  
21 motion, as a defense or otherwise, any claim or objection that they are not subject to  
22 the jurisdiction of the Court, or that the Court is, in any way, an improper venue or  
23 an inconvenient forum. These provisions are necessary to protect the Settlement  
24 Agreement, this Order and this Court's authority to effectuate the Settlement, and  
25 are ordered in aid of this Court's jurisdiction and to protect its judgment.

26 14. By attaching the Settlement Agreement as an exhibit and incorporating  
27 its terms herein, the Court determines that this Final Judgment complies in all  
28 respects with Federal Rule of Civil Procedure 65(d)(1).



1           15. The Court approves Class Counsel’s application for \$\_\_\_\_\_ in  
2 attorneys’ fees, \$\_\_\_\_\_ in costs, and for service awards to the Settlement  
3 Class representative in the amount of \$\_\_\_\_\_.

4           16. Finding that there is no just reason for delay, the Court orders that this  
5 Final Judgment and Order of dismissal shall constitute a final judgment pursuant to  
6 Rule 54 of the Federal Rules of Civil Procedure. The Clerk of the Court is directed  
7 to enter this Order on the docket forthwith.

8           SO ORDERED.

9

10 Dated: \_\_\_\_\_

11

12

By: \_\_\_\_\_  
HON. BEVERLY REID O’CONNELL

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

# **EXHIBIT F**

**Exclusion Request Form**  
***Thomas v. Dun & Bradstreet Credibility Corp., U.S.D.C.***  
***Central District of California Case No. CV15-03194 BRO (GJSx)***

**Why would I ask to be excluded?**

If you don't want a payment from this Settlement, and you do not want to be bound by the Settlement Agreement in this case, then you must take steps to exclude yourself from the Settlement Class. If you exclude yourself from the Settlement Class—which is sometimes called “opting out” of the Settlement Class—you won’t get any money from this Settlement. If you exclude yourself, you will not be legally bound by the Court’s judgments in this class action, and you are not agreeing to the terms of the Settlement with Dun & Bradstreet Credibility Corp. If you do not want be part of this lawsuit against Dun & Bradstreet Credibility Corp., you are of course not obligated to do so, but must ask to be excluded from the Settlement.

---

I request to be excluded from the Settlement Class. I understand that if I am excluded from the Settlement Class, I will not receive any money from the Settlement. I understand that if I am excluded from the Settlement Class, I will not be bound by any judgment in this case and I am not agreeing to the terms of the Settlement between the parties.

Date: \_\_\_\_\_, 201\_\_ \_\_\_\_\_  
(signature)

(You must complete the following information to exclude yourself)

\_\_\_\_\_  
Full Name

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone Number

If you want to exclude yourself from the class action lawsuit, you must complete this form and send it by no later than **[date]** to the following address:

Credibility TCPA Settlement Claims Administrator  
**P.O. Box xxxxx**  
**Providence, RI 02940-xxxx**