

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

*Clark-Alonso v. Southwest Airlines Co.*

**Merced County Superior Court**

**Case No. 21CV-02475**

**READ THIS NOTICE CAREFULLY  
YOUR LEGAL RIGHTS MAY BE AFFECTED**

All persons who placed a call to Southwest Airlines Co.'s Rapid Rewards toll-free telephone number (800-445-5764) from a telephone number with a California area code at any time during the period from and including March 25, 2019 through August 20, 2019, may be entitled to money from a class action settlement. This settlement covers those calls. Please read the rest of this Notice to find out more.

**YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT**

<b>Participate in the Settlement</b>	If you wish to receive a Settlement Payment, read this Notice for information on how to file a claim. If you do not file a Claim Form by April 15, 2022, you will not receive a Settlement Payment.
<b>Exclude Yourself from the Settlement</b>	If you do not want to participate in the Settlement, you must send a letter requesting exclusion postmarked no later than April 15, 2022 or else you will be bound by the Settlement.
<b>Object to the Settlement</b>	If you wish to object to the Settlement, you must follow the directions in this Notice. The deadline to object is April 15, 2022.
<b>Participate in the Hearing</b>	If you submit a timely objection to the Settlement, you may also indicate in the objection whether you wish to appear in court and be heard at the time of the final fairness hearing.
<b>Do Nothing</b>	If you do nothing with respect to this Notice, you will not receive any Settlement Payment and you will be bound by the terms of the Settlement, including the release of claims described below.

**THESE RIGHTS AND OPTIONS, INCLUDING THE DEADLINES BY WHICH YOU  
MUST EXERCISE THEM, ARE EXPLAINED BELOW**

### **What is the Case About?**

This class action case (“the Action”) alleges that Southwest Airlines Co. (“Defendant”) violated California laws that prohibit the recording of telephone calls without notice to or consent of callers. **The case covers calls made to Defendant’s Rapid Reward toll-free telephone number (800-445-5764) from telephones with California area codes at any time during the period from and including March 25, 2019 through August 20, 2019, that were recorded by Defendant.**

### **What is a Class Action?**

In a class action, one or more people called Class Representatives (in this case, Mike Clark-Alonso) sue on behalf of people who have claims similar to their own.

### **Am I a Settlement Class Member?**

You are a Settlement Class Member if you are a person who called Defendant’s Rapid Rewards toll-free telephone number (800-445-5764) from a telephone with a California area code at any time during the period from and including March 25, 2019 through August 20, 2019 (the “Class Period”) and your call was recorded by Defendant.

**Defendant has a record of telephone numbers that called its Rapid Rewards toll-free telephone number during the Class Period and were recorded. If you received Notice of this proposed settlement by U.S. mail or email, there are records indicating that you might be a member of the Settlement Class entitled to submit a Claim Form. You may be a Settlement Class Member even if you did not receive a mailed or emailed Notice of this proposed Settlement if you made one or more calls to Defendant’s Rapid Rewards telephone number during the Class Period. If you are not sure whether you qualify, you can contact the Claims Administrator by calling 1-833-910-3607 or by email at [info@southwestcaliforniacallrecordingsettlement.com](mailto:info@southwestcaliforniacallrecordingsettlement.com) to ask whether your telephone number or numbers appear on the list of qualifying calls.**

### **Why is There a Settlement?**

Southwest denies that it is liable for the claims alleged in the Action, and the Court has not decided in favor of either side. But both sides agreed to a settlement to avoid the uncertainty and cost of further litigation and a trial, and to provide benefits to Settlement Class Members promptly. The terms of the Settlement are spelled out in the Settlement Agreement and Release, which you may access through the settlement website, [www.SouthwestCaliforniaCallRecordingSettlement.com](http://www.SouthwestCaliforniaCallRecordingSettlement.com), by calling 1-833-910-3607, by writing to the Claims Administrator at Southwest Call Recording Settlement, c/o Kroll Settlement Administrator, P.O. Box 225391, New York, NY 10150-5391, or by accessing the Court docket in this case through the Court’s website at <https://jportal.mercedcourt.org/MERCEDPROD/Home/Dashboard/29> and typing in the case number (21CV-02475).

### **What Can I Get From The Settlement?**

Defendant has agreed to create a settlement fund of up to \$1,250,000. After class action Notice and administration fees and costs, a service payment to the Class Representative, and Class Counsel’s attorneys’ fees and costs are deducted, the entire remaining amount (estimated to be \$790,000) (“Net Settlement Amount”) will be available to be paid on a per-call basis in the amount of \$39 per-call to Settlement Class Members who submit timely and valid Claim Forms (i.e., Authorized Claimants). If the dollar value of all claims submitted by Authorized Claimants totals less than 50% of the Net Settlement Amount, each Authorized Claimant’s payment will be increased on a pro-rata basis until the total amount paid to all Authorized Claimants collectively equals 50% of the Net Settlement Amount.

**The Claims Administrator can verify the number of qualifying telephone calls made from each telephone number during the Class Period. If you would like information regarding the number of qualifying telephone calls associated with your claim, you can contact the Claims Administrator by calling 1-833-910-3607 or by email at [info@southwestcaliforniacallrecordingsettlement.com](mailto:info@southwestcaliforniacallrecordingsettlement.com).**

### **How Do I Dispute the Number of Qualifying Calls That I Made?**

**If you would like to dispute the number of telephone calls associated with your telephone number or numbers, you should contact the Claims Administrator by telephone 1-833-910-3607 or email [info@southwestcaliforniacallrecordingsettlement.com](mailto:info@southwestcaliforniacallrecordingsettlement.com) to submit a dispute. You may be required to provide proof of your telephone calls to Defendant's Rapid Rewards telephone number during the Class Period. All disputes must be submitted by April 15, 2022, which also is the deadline to submit a claim. The Claims Administrator shall make a final and binding resolution of all disputes.**

### **What Do I Need to Do To Receive a Settlement Payment?**

**You must complete a Claim Form and return it to the Claims Administrator on time. You may obtain a hard copy Claim Form from the Settlement Website, [www.SouthwestCaliforniaCallRecordingSettlement.com](http://www.SouthwestCaliforniaCallRecordingSettlement.com), by calling 1-833-910-3607, or by writing to the Claims Administrator at Southwest Call Recording Settlement, c/o Kroll Settlement Administrator, P.O. Box 225391, New York, NY 10150-5391. You also may submit a completed Claim Form online at the Settlement Website, [www.SouthwestCaliforniaCallRecordingSettlement.com](http://www.SouthwestCaliforniaCallRecordingSettlement.com).**

**To submit a claim form online, you MUST provide your 13-digit Class Member ID, which can be found on the postcard or email Notice you may have received. You also may obtain the required code by contacting the Claims Administrator by telephone 1-833-910-3607 or email [info@southwestcaliforniacallrecordingsettlement.com](mailto:info@southwestcaliforniacallrecordingsettlement.com). A Claim Form will not be considered timely unless it is returned to the Claims Administrator online or sent by mail postmarked no later than April 15, 2022.**

### **What Am I Giving Up to Get Settlement Benefits or Stay in the Settlement Class?**

Unless you exclude yourself, as described below, you will remain in the Settlement Class and be bound by the terms of the settlement and all of the Court's orders regardless of whether you submit a claim form. This means that you can't sue or be part of any other lawsuit against Defendant or other Released Parties (defined below) about the issues in this case. Staying in the Settlement Class also means that you agree to the following release of claims, which describes the legal claims that you give up:

**Release by the Settlement Class.** Upon the Settlement Effective Date, the Settlement Class Representative and each Settlement Class Member, and their respective heirs, assigns, successors, agents, attorneys, executors, and representatives, shall be deemed to have, and by operation of this Agreement and the Final Approval Order and Judgment shall have, fully, finally, irrevocably, and forever, released Southwest Airlines Co. and its past or present direct and indirect parents, affiliates and subsidiaries (whether or not wholly owned) and its respective present and former directors, officers, employees, agents, insurers, reinsurers, co-insurers, shareholders, members, attorneys, advisors, consultants, representatives, affiliates, related companies, parents, subsidiaries, employees, officers, members and owners (whether or not wholly owned), joint ventures, divisions, predecessors, successors, and assigns and each of them (collectively, the "Released Parties") from any and all liabilities, claims, causes of action, damages (whether actual, compensatory, statutory, punitive or of any other type),

penalties, costs, attorneys' fees, losses, or demands, whether known or unknown, in law or equity, existing or suspected or unsuspected, that were or reasonably could have been asserted based on the factual allegations contained in the Complaint, or that relate to or arise out of the alleged recording, monitoring, or eavesdropping on telephone calls made to Defendant's Rapid Rewards toll-free telephone number (800-445-5764) at any time during the period from and including March 25, 2019 through August 20, 2019 (collectively, the "Released Claims"). The Released Claims include, but are not limited to, claims that were or reasonably could have been asserted based on the factual allegations contained in the Complaint concerning the Released Parties' violations of any law prohibiting or regulating the monitoring, recording or eavesdropping on telephone calls without the consent of all parties, including but not limited to any claims under California Penal Code §§ 632, 632.7 and 637.2, during the Class Period. The Released Claims also include but are not limited to claims under any other California or federal statute, code, rule or regulation that regulates or restricts the monitoring or recording of or eavesdropping on telephone calls. The Settlement Class Representative and each Settlement Class Member, and their respective heirs, assigns, successors, agents, attorneys, executors, and representatives, also waive in connection with the Released Claims only any and all provisions, rights and benefits, which they now have or in the future may be conferred on them by section 1542 of the California Civil Code or any comparable statutory or common law provision of any other jurisdiction.

### **When Should I Receive My Settlement Payment?**

The Court will hold a hearing on June 6, 2022, to decide whether to give final approval to the settlement. If the settlement receives final approval, payments may be made as soon as July 2022, depending on what happens in the case, payments could be delayed. You can stay informed of the progress of the settlement through the dedicated settlement website at [www.SouthwestCaliforniaCallRecordingSettlement.com](http://www.SouthwestCaliforniaCallRecordingSettlement.com). Please be patient.

### **Can I Exclude Myself From the Settlement?**

If you want to keep the right to sue Defendant or any of the Released Parties on your own and at your own expense about the issues in this case, then you must take steps to exclude yourself from the settlement. This is also called "opting out" of the Settlement. To exclude yourself from the Settlement, you must send a letter by United States first class mail to the Claims Administrator, containing: (1) the title of the Action; (2) your full name, address, and telephone number; (3) a statement that you request to be excluded from the Settlement Class; and (4) the telephone number(s) that you claim to have used in making a call or calls covered by this class action settlement. Be sure to include your name, address, telephone number and signature. If you decide to exclude yourself, your letter requesting exclusion from the settlement must be postmarked no later than April 15, 2022 and mailed to:

Southwest Call Recording Settlement Exclusions  
c/o Kroll Settlement Administrator  
P.O. Box 225391  
New York, NY 10150-5391

If you request exclusion from the Settlement, you will not get any settlement benefits and you cannot object to the terms of the Settlement. And you will not be legally bound by anything that happens in this lawsuit.

### **If I Don't Exclude Myself, Can I Sue the Defendant for the Same Thing Later?**

No. Unless you exclude yourself, you give up any right to sue Defendant and any of the Released Parties for the claims that this Settlement resolves.

### **Do I Have a Lawyer in this Case?**

The Court has appointed Eric A. Grover of Keller Grover LLP and Scot Bernstein of Law Offices of Scot D. Bernstein, A Professional Corporation to represent you and other class members as Class Counsel. Class Counsel will be paid from the settlement fund and you will not be charged separately for this. If you want to be represented by your own lawyer, you may hire one at your own expense.

### **How Will the Lawyers and the Class Representatives Be Paid?**

Class Counsel will ask the Court to approve payment of up to \$400,000 in attorneys' fees and out-of-pocket costs. The fees would pay Class Counsel for investigating the facts, litigating the case, negotiating the Settlement, and following through to make sure that its terms are carried out. Class Counsel also will ask the Court to approve a payment of \$10,000 to the named plaintiff for his service as Class Representative. The Court may award less than these amounts.

### **How Do I Tell the Court That I Don't Like the Settlement?**

You can ask the Court to deny approval by filing an objection. If the Court denies approval, no settlement payments will be sent out to anyone and the lawsuit will continue.

All written objections and supporting papers must include: (1) the name and case number of the lawsuit (-*Clark-Alonso v. Southwest Airlines Co.*, Merced County Superior Court Case No. 21CV-02475); (2) the objector's full name and postal address; (3) a statement as to the basis of the objector's belief that he or she is a member of the Settlement Class; (4) all grounds for the objection including, if available, the factual and legal bases for the objection known to the objector or his or her counsel and the relief the objector is seeking; (5) the identity, postal address, and telephone number for all counsel who represent the objector, if any; and (6) a statement confirming whether the objector or the objector's counsel intend to appear personally at the final fairness hearing.

Objections must be submitted to the Claims Administrator by mailing them to Southwest Call Recording Settlement Objections, c/o Kroll Settlement Administrator, P.O. Box 225391, New York, NY 10150-5391. Objections must be postmarked on or before April 15, 2022 to be considered timely.

### **What's the Difference Between Objecting and Excluding?**

Objecting is telling the Court that you don't like something about the settlement. You can object only if you stay in the Class. If you object, you still must submit a timely Claim Form if you want to receive the benefits of the Settlement in the event that your objection is overruled and the Settlement is approved. Excluding yourself is telling the Court that you don't want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you. You cannot both object to and exclude yourself from the Settlement. Any persons who attempt both to object to and exclude themselves from the Settlement will be deemed to have excluded themselves and will forfeit the right to object to or participate in the Settlement or any of its terms. Similarly, you cannot both opt out and submit a Claim Form. If you submit a timely Claim Form and an opt-out request, the opt-out request shall be deemed void and the Claim Form will be processed under the terms of the Settlement.

### **When and Where Will the Court Decide Whether to Approve the Settlement?**

The Court will hold a final fairness hearing regarding the Settlement at 08:15 a.m. on June 6, 2022 at the Merced County Superior Court, Department 8, 2260 N Street, Merced, California 95340. At that hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will listen to people who have asked to speak at the hearing. The Court also will decide how much to pay to Class

Counsel and the Class Representative. After the hearing, the Court will decide whether to approve the Settlement. Class Counsel do not know how long those decisions will take.

The final fairness hearing date or time may be changed without further notice. Any change to the final fairness hearing date or time will be posted on the settlement website, [www.SouthwestCaliforniaCallRecordingSettlement.com](http://www.SouthwestCaliforniaCallRecordingSettlement.com).

### **Do I Have to Come to the Hearing?**

No. Class Counsel will answer questions that the Court may have. But you are welcome to attend at your own expense. If you submit an objection, you don't have to come to Court to talk about it. As long as you submit your written objection on time, the Court will consider it. You also may have your own lawyer attend at your own expense but doing so is not necessary.

You may ask the Court for permission to address any objection you may have to the Settlement at the final fairness hearing. To do so, you must submit a timely objection and include a statement that you intend to appear at the final fairness hearing.

### **What Happens if I Do Nothing At All?**

If you do nothing, you will remain in the Settlement Class and will be bound by the terms of the Settlement and all of the Court's orders including the Release. But this also means that you will *not* receive any settlement benefits and can't sue or be part of any other lawsuit against Defendant or the Released Parties about the issues in this case.

### **Are There More Details About the Settlement?**

This Notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Settlement Agreement and Release. You can get a copy of the Settlement Agreement and Release and other case documents through the settlement website, [www.SouthwestCaliforniaCallRecordingSettlement.com](http://www.SouthwestCaliforniaCallRecordingSettlement.com), by calling 1-833-910-3607, by writing to the Claims Administrator at Southwest Call Recording Settlement, c/o Kroll Settlement Administrator, P.O. Box 225391, New York, NY 10150-5391, or by accessing the Court docket in this case through the Court's website at <https://jportal.mercedcourt.org/MERCEDPROD/Home/Dashboard/29> and typing in the case number (21CV-02475). You also can contact Class Counsel:

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**PLEASE DO NOT CALL THE COURT, THE COURT CLERK'S OFFICE, DEFENDANT OR DEFENDANT'S COUNSEL WITH ANY QUESTIONS RELATED TO THE SETTLEMENT.**