

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

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ELY GEMBORYS, *on behalf of himself and all
others similarly situated,*

Plaintiff,

V.

CENLAR AGENCY, INC.,

Defendant.



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**NOTICE REGARDING RIGHT TO BENEFIT FROM
CLASS ACTION SETTLEMENT**

A Settlement Agreement has been reached in a class action lawsuit contending that Cenlar Agency, Inc. (“Cenlar”) violated the law by placing in excess of two telephone calls in a seven-day period to Massachusetts consumers to collect a debt. Cenlar’s records show that you may be a Class Member under the Settlement Agreement reached in the case.

A Settlement Fund of \$612,500 has been established to pay valid claims, attorneys’ fees, costs, any incentive award to the Class Representative (Ely Gemborys) and settlement administration costs. You may be entitled to receive an equal share of the fund. The final cash payment will depend on the total number of valid and timely claims filed by all Class Members. Your legal rights are affected whether you act or don’t act so read this Notice carefully.

YOUR OPTIONS	
Option 1: Submit a Claim Form Deadline: April 20, 2021	Complete and submit a Claim Form and receive an equal share of the Settlement Fund. By completing and submitting a Claim Form you may recover an equal share of the Settlement Fund. This is the only way to claim and receive from the Fund.
Option 2: Ask to be Excluded Deadline: April 20, 2021	Get out of this lawsuit and get no benefits from it. You may ask to be excluded from the lawsuit. By excluding yourself, you cannot recover as part of this settlement and you keep a right to sue on your own.
Option 3: Object Deadline: April 20, 2021	Object to the terms of the Settlement Agreement. You may object to the terms of the Settlement Agreement and have your objections heard at the June 23, 2021 Fairness Hearing.

1. What is this lawsuit about?

The lawsuit is called *Ely Gemborys v. Cenlar Agency, Inc.*, 4:20-cv-40006, and it is pending in United States District Court for the District of Massachusetts. In the lawsuit, Ely Gemborys, the Plaintiff, alleges that Cenlar, the Defendant, violated the Massachusetts Consumer Protection Act, M.G.L. c. 93A § 2, *et seq.* (“MCPA”), and the Massachusetts Debt Collection Regulations, 940 CMR § 7.00, *et seq.* (“MDCR”), by placing in excess of two calls regarding a debt within a seven-day period to Plaintiff and other Massachusetts consumers.

Cenlar contends that it did not make any calls to Plaintiff as alleged in the Complaint, and that any calls to Plaintiff were in fact made by Cenlar FSB. Cenlar denies any wrongdoing, denies that it violated the MCPA, the MDCR or any other law.

Both sides have agreed to settle the lawsuit to avoid the cost, delay, and uncertainty of further litigation.

You can read Plaintiff’s Complaint, the Settlement Agreement, other case documents, and submit a Claim Form at www.GemborysClass.com.

2. Why is this a class action?

In a class action, a Class Representative (in this case the Plaintiff Ely Gemborys) sues on behalf of a group (or a “Class”) of people. Here, the Class Representative sued on behalf of people who have similar claims regarding allegedly excessive debt collection calls.

3. Why is there a settlement?

To avoid the cost, risk, and delay of litigation, the Parties reached a settlement agreement as to Plaintiff’s and the Class claims.

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

For settlement purposes, the Court has certified a Class consisting of all people who meet the following definition:

All persons residing in the Commonwealth of Massachusetts to whom, within the Class Period, Cenlar made in excess of two telephone calls regarding a debt within a seven-day period to their residence, cellular telephone, or other provided telephone number as reflected on the Class List.

“Class List” means a list produced by Cenlar consisting of the names, last known addresses and telephone numbers of the 11,699 Settlement Class Members.

5. How do I recover?

Submit a Claim Form. This is the only way to get a payment. You have the right as a member of the Settlement Class to receive an equal share of the Settlement Fund.

The final cash payment will depend on the total number of valid and timely claims filed by all Class Members. Each claiming Class Member will be entitled to an equal share of the Settlement Fund, after deductions from the fund for administrative costs, attorneys’ fees and expenses, and any incentive award to the Plaintiff.

You can submit a Claim Form online at www.GemborysClass.com.

Or, you can download the Claim Form online and mail it to:

Gemborys v. Cenlar Agency Settlement Administrator
P.O. Box 43501
Providence, RI 02940-3501

All Claim Forms must be mailed or filed online no later than April 20, 2021.

After all valid Claim Forms are counted, and the settlement is given final approval by the Court, the Settlement Administrator will provide each claiming Settlement Class Member their share of the Settlement Fund after the deductions above. Any excess settlement funds or benefit checks not cashed by Settlement Class Members may be provided to a charitable organization approved by the Court.

6. What am I giving up to receive these benefits?

By staying in the Class, all of the Court's orders will apply to you, and you give a "release" for any claims arising from allegedly excessive telephone calls to you. A release means you cannot sue or be part of any other lawsuit against Cenlar and the Released Parties about the claims or issues in this lawsuit and you will be bound by the Settlement Agreement.

7. How much will the Class Representative receive?

The Class Representative will receive his portion of the settlement as a Class Member and an incentive award for having pursued this action. Any incentive payment is subject to Court Approval. The Class Representative will request an incentive award of up to \$10,000.

8. Do I have a lawyer in this case?

To represent the Class, the Court has appointed attorneys with the law firm of Lemberg Law, LLC, 43 Danbury Road, Wilton, CT 06897 as "Class Counsel."

Class Counsel will request an award of attorneys' fees of up to 33% of the Settlement Fund and for reimbursement of expenses. Any attorneys' fee and expense award is subject to Court Approval. You may hire your own attorney, but only at your own expense.

9. I don't want to be part of this case, how do I ask to be excluded?

Answer: Send a Request to Be Excluded.

If you don't want a payment from this settlement, but you want to keep the right to individually sue the Defendant about the issues in this case, then you must take steps to get out of the settlement. This is called excluding yourself, or "opting out," of the Settlement Class. To request to exclude yourself, you must send a letter by mail with (a) the Requester's full name, address, and the name of the Action and telephone number; (b) the Requester's personal and original signature, or the original signature of a person previously authorized by law, such as a trustee, guardian, or person acting under a valid power of attorney, to act on behalf of the Requester; and (c) a statement that the Requester unequivocally desires to be excluded from the Settlement Class, to be excluded from the settlement, not to participate in the settlement, and/or to waive all rights to the benefits of the settlement.

You must mail your exclusion request postmarked no later than April 20, 2021 to *Gemborys v. Cenlar Agency* Settlement Administrator, P.O. Box 43501, Providence, RI 02940-3501.

10. How do I object?

Any Settlement Class Member who has not requested to be excluded from the Settlement Class may object to the settlement and/or any fee or incentive award petition. In order to exercise this right, you must submit your objection to the Court by the Objection Deadline. Your objection must: (i) set forth the Settlement Class Member's full name, current address, and telephone number; (ii) contain the Settlement Class Member's original signature or the signature of counsel for the Settlement Class Member; (iii) state that the settlement Class Member objects to the Settlement, in whole or in part; (iv) set forth the complete legal and factual bases for the Objection; (v) provide copies of any documents that the Settlement Class Member wishes to submit in support of his/her position; and (vi) state whether the objecting Settlement Class Member intends to appear at the Fairness Hearing, which may be held virtually due to the Covid-19 pandemic, either *pro se* or through counsel and whether the objecting Settlement Class Member plans to offer testimony at the Fairness Hearing. Any Class Member that fails to object in the manner set forth herein shall be foreclosed from making such objection or opposition, by appeal, collateral attack, or otherwise and shall be bound by all of the terms of this settlement upon Final Approval and by all proceedings, orders and judgments, including but not limited to the Release in the Action.

Objections must be filed with the Clerk of the Court, and delivered or postmarked no later than April 20, 2021.

The Court's address is: *Clerk of the Court, District of Massachusetts, 595 Main St., Worcester, MA 01608.*

The Fairness Hearing

The Court will hold a Fairness Hearing on **June 23, 2021 at 3:00 p.m.**, in the courtroom of the Honorable Timothy S. Hillman, United States Courthouse, *District of Massachusetts, 595 Main St., Worcester, MA 01608.* The hearing may be held virtually due to the Covid-19 pandemic. Check the main page of the settlement website for information regarding how the hearing will be conducted. The purpose of the hearing will be for the Court to determine whether the proposed settlement is fair, reasonable, and adequate and in the best interests of the Class, and to rule on applications for compensation for Class Counsel and an incentive award for the Class Representative. At that hearing, the Court will be available to hear any objections and arguments concerning the fairness of the proposed settlement.

YOU ARE **NOT** REQUIRED TO ATTEND THIS HEARING TO BENEFIT FROM THIS SETTLEMENT. The hearing may be postponed to a later date without notice.

FOR MORE INFORMATION

Additional information and documents, including case documents, are available at www.GemborysClass.com, or you can call 866-753-8859.