

# Notice of Proposed Class Action Settlement & Final Fairness Hearing

*Hernandez v. Enhanced Recovery Company, LLC*  
Superior Court of New Jersey, Law Division, Middlesex County  
Docket No. MID-L-002640-12

This notice is authorized by the Superior Court of New Jersey.  
This is not a solicitation. Do not be alarmed. You are **NOT** being sued.

**If you received an initial collection letter from Enhanced Recovery Company, LLC between April 13, 2011 and February 18, 2012, seeking to collect a debt allegedly owed to Verizon Wireless™ and including a demand for collection fees, you may be entitled to payment under a proposed class action settlement.**

**You must sign and return the enclosed Claim Form by November 30, 2013 to receive a payment.**

This notice is to inform you of a proposed class action settlement in a lawsuit against Enhanced Recovery Company, LLC (“ERC”) alleging that ERC’s initial collection letters violated the Fair Debt Collection Practices Act (15 U.S.C. §1692 et seq.), a federal law.

Under the proposed settlement, certain consumers who received initial collection letters from ERC (“Settlement Class Members”) will each receive between \$15.00 and \$100.00 in cash depending on how many claim forms are timely submitted. This notice was sent to you because you were identified as a Settlement Class Member. **You must sign and return the enclosed Claim Form by November 30, 2013 to receive a payment.**

This notice summarizes the claims made in the lawsuit, describes the proposed settlement and informs you of your rights. Your legal rights are affected whether or not you act. Please read this notice carefully.

## YOUR LEGAL RIGHTS & OPTIONS REGARDING THE PROPOSED SETTLEMENT

**Do nothing:**

*Remain in the Settlement Class and receive no payment. You will not be able to bring any other claims against ERC for issues arising from or relating to the legal claims in this case.*

**Submit Claim Form by November 30, 2013:**

*Remain in the Settlement Class and receive a payment of between \$15 and \$100 depending upon how many claim forms are timely received by the Settlement Administrator. You will not be able to bring any other claims against ERC for issues arising from or relating to the legal claims in this case.*

**Exclude yourself (opt out) by October 31, 2013:**

*Get no payment. Excluding yourself (opting out) is the only option that allows you to ever be part of any other lawsuit against ERC regarding the legal claims in this case.*

**Object by October 31, 2013:**

*Write to the Court about why you think the proposed settlement is or is not fair.*

**Go to a hearing on November 18, 2013:**

*Ask to speak in Court about why you think the proposed settlement is or is not fair.*

These options—and the deadlines to exercise them—are explained further in this notice.

The Court in charge of this case still has to decide whether or not to approve the settlement. Payments will be made only if you timely submit a Claim Form and only if the Court approves the proposed settlement and only after any appeals, if any, are resolved. Therefore, please be patient.

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## BASIC INFORMATION

### 1. WHAT IS A CLASS ACTION AND WHO IS INVOLVED?

In a class action lawsuit, a person (“Class Representative”) sues on behalf of others who have the same claims. People with the same claims are called “Class Members”, or collectively, a “Class”. Because everyone in the Class has the same claims against the party being sued, one court can resolve the issues for everyone in the Class, except those who choose to exclude themselves from the Class. In this case, Rodolfo Hernandez is the Class Representative.

### 2. WHAT IS THIS LAWSUIT ABOUT?

Mr. Hernandez filed a lawsuit alleging that Enhanced Recovery Company, LLC (“ERC”) sent initial collection letters to New Jersey consumers that violated the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. §1692 *et seq.*, a federal law.

Specifically, Mr. Hernandez alleged that he received an initial collection letter from ERC (or on ERC letterhead), seeking to collect a debt allegedly owed to Cellco Partnership d/b/a Verizon Wireless™ (“VZW”), that demanded collection fees in violation of the FDCPA.

ERC has denied all allegations in the lawsuit and maintains that it did nothing wrong.

### 3. WHY DID I GET THIS NOTICE?

You received this Notice because ERC’s records show that you received an initial collection letter from ERC (or on ERC letterhead), seeking to collect a debt allegedly owed to VZW, that demanded a collection fee.

### 4. WHY IS THERE A SETTLEMENT?

The Class Representative and ERC agreed to a settlement in order to avoid the expense of a trial and possible appeals, and to ensure that the affected individuals will receive compensation. The Class Representative and the attorneys appointed by the Court to serve as Class Counsel believe that the proposed settlement is in the best interest of all Settlement Class Members. By settling this lawsuit, ERC does not admit any wrongdoing.

### 5. WHO IS IN THE SETTLEMENT CLASS?

The “Settlement Class” includes all persons who received initial collection letters at an address in New Jersey from ERC (or on ERC letterhead) between April 13, 2011 and February 18, 2012, seeking to collect debts allegedly owed to VZW and demanding collection fees (“Settlement Class Members”).

The Settlement Class specifically excludes any judges and/or mediators presiding over the litigation and any member of their immediate families.

ERC has confirmed that there are 2579 Settlement Class Members, not including the Settlement Class Representative.

### 6. HAS THE COURT DECIDED WHO IS RIGHT?

No. The Court has not yet made any determination as to which party is right.

### 7. WHO REPRESENTS THE SETTLEMENT CLASS IN THIS CASE?

The proposed settlement provides that Andrew R. Wolf, Esq., Henry P. Wolfe, Esq., Daniel I. Rubin, Esq. and Aaron Mizrahi, Esq. of The Wolf Law Firm LLC are qualified to represent all Settlement Class Members, and that the Court should appoint them as “Class Counsel”.

These attorneys are experienced in representing class members in class action lawsuits and class action settlements. You will not be charged for the services they provide on behalf of the Settlement Class. You may choose to have your own attorney represent you in this matter; however, if you want to be represented by your own attorney, you will be responsible for paying his/her fees. Class Counsel’s contact information is as follows:

THE WOLF LAW FIRM LLC  
1520 U.S. Highway 130, Suite 101  
North Brunswick, New Jersey 08902  
Telephone: (732)798-8055 | Facsimile: (732) 545-1030  
E-mail: info@wolflawfirm.net

## THE TERMS OF THE PROPOSED SETTLEMENT

### 8. WHAT IS THE PROPOSED SETTLEMENT?

In exchange for releasing certain claims against ERC (see Question 9 below for a description of the released claims), all Settlement Class Members will receive the settlement benefits described below.

#### **Payments to Settlement Class Members**

To resolve claims of all Settlement Class Members, ERC agreed to pay a total of 0.70% of its net worth as of December 31, 2011. ERC will pay a total of \$38,700 to the Settlement Class as a whole.

Assuming the Court approves the proposed settlement at the Final Fairness Hearing, within 14 days after that final approval, ERC will deposit \$38,700 into a non-interest-bearing escrow account established and maintained by the Settlement Administrator (the "Settlement Fund"), from which payments will be issued to Settlement Class Members.

If all of the 2,579 Settlement Class Members remain in the Settlement Class and timely submit a claim form, each Settlement Class Member other than the Settlement Class Representative shall receive a relief check in the amount of \$15. If less than all of the 2,579 Settlement Class Members submit a claim form, those who do submit a timely Claim form shall receive a check up to a maximum of \$100. Ultimately, the amount that each Settlement Class Member receives will depend upon the number of Settlement Class Members who timely submit a Claim Form, and will be determined by dividing the amount ERC deposits into the Settlement Fund by the total number of Settlement Class Members, reduced to the nearest whole one cent.

Relief checks will be mailed to all Settlement Class Members who timely submit a signed Claim Form within 21 days after the Court issues a final approval of the proposed settlement. Relief checks will expire 4 months plus 5 days after the date that they are mailed.

#### **Additional Settlement Benefits**

The proposed settlement also includes the following terms:

##### **ERC Will Pay All Costs of Administering the Final Settlement**

ERC will pay all costs and expenses associated with administering the final settlement, including the Settlement Administrator's fees and costs.

##### **ERC Will Pay \$2,000 to the Settlement Class Representative**

ERC will make a cash payment of \$2,000 to Mr. Hernandez to resolve his individual claims against ERC and also in recognition of his efforts on behalf of the Settlement Class.

##### **ERC Will Donate Certain Amounts from the Remaining Balance of the Settlement Fund**

If a relief check sent to a Settlement Class Member is returned to the Settlement Administrator as undeliverable, is not cashed prior to its expiration date or there are funds in the Settlement Fund representing amounts from the rounding down of settlement checks to the nearest cent, then within 30 days of the last relief check's expiration date, the total amount of those items will be paid to Central Jersey Legal Services as a *cy pres* award and without any restrictions on use. (A *cy pres* award to a charity is similar to a donation and is how leftover monies in a class action settlement fund are often distributed.) In addition to the foregoing *cy pres* calculation, if less than 387 and 350 or more Claim Forms are timely submitted the *cy pres* award shall be increased by the balance in the Settlement Fund. If less than 350 Claim forms are timely submitted, the remaining balance in the Settlement Fund after the *cy pres* calculation will be returned to ERC.

##### **ERC Will Pay Class Counsel's Fees and Expenses**

ERC agreed to pay Class Counsel's fees and expenses in the amount of \$73,600 within 10 days after the Court issues a final approval of the proposed settlement. This amount includes all costs and expenses, time already spent and time to be spent including finalizing the settlement, preparing settlement documents, drafting briefs, attending hearings, responding to and defending against any objections to the settlement and monitoring of the settlement and settlement administration. This payment of fees and expenses to Class Counsel is in addition to the settlement benefits to the Settlement Class and ERC's payment of any attorneys' fees and expenses will not reduce the benefits to the Settlement Class.

### 9. WHAT CLAIMS AM I RELEASING IF I REMAIN IN THE SETTLEMENT CLASS?

If the Court approves this proposed settlement at the Final Fairness Hearing, then Mr. Hernandez and each Settlement Class Member, for themselves, their heirs, successors and assigns will jointly and severally remise, release, acquit and forever discharge ERC, including past and present partners, members, officers, directors, shareholders, employees, agents, successors and assigns of ERC of and from any and all actions, causes of action, suits, claims, defenses, covenants, controversies, agreements, promises, damages, judgments, demands, liabilities and obligations in law or in equity that Mr. Hernandez and the Settlement Class Members asserted or could have asserted as a result of, arising out of, or in connection with the practices

described in the Complaint in this action, as they relate to Defendant's alleged attempts to collect unauthorized collection fees on behalf of VZW. **Those who exclude themselves from (opt out of) the Settlement Class will not be releasing any claims against ERC.**

## YOUR RIGHTS REGARDING THE PROPOSED SETTLEMENT

### 10. HOW DO I PARTICIPATE IN THE FINAL SETTLEMENT?

**You must timely submit a Claim Form to receive benefits under the final settlement.** You must sign and return the enclosed Claim Form by November 30, 2013 to receive a payment check from this settlement. If you do not timely submit a Claim Form you will remain a Settlement Class Member and release claims against ERC unless you exclude yourself (opt out).

**Your signed Claim Form must be addressed to the Settlement Administrator at the address below and postmarked or received by the Settlement Administrator no later than November 30, 2013:**

*Settlement Administrator*  
*Hernandez v. Enhanced Recovery Company, LLC*  
c/o Strategic Claims Services, Inc.  
600 North Jackson Street, Suite 3  
Media, Pennsylvania 19063

### 11. HOW CAN I EXCLUDE MYSELF FROM (OPT OUT OF) THE SETTLEMENT CLASS?

If you want to be excluded (opt out), you must notify the Settlement Administrator in writing. **Your written request must contain your printed name and address, and it must state: "I do not want to be part of the Settlement Class in *Hernandez v. Enhanced Recovery Company, LLC*, Docket No. MID-L-002640-12."** You must also sign your request.

Your request must be addressed to the Settlement Administrator:

*Settlement Administrator*  
*Hernandez v. Enhanced Recovery Company, LLC*  
c/o Strategic Claims Services, Inc.  
600 North Jackson Street, Suite 3  
Media, Pennsylvania 19063

**To be excluded from (opt out of) the Settlement Class your written request must be received by the Settlement Administrator no later than 5:00PM on October 31, 2013. If your request is received by the Settlement Administrator after 5:00PM on October 31, 2013 your request will be considered untimely and you will continue to be a member of the Settlement Class.**

**If your request to exclude yourself (opt out) is timely, you will no longer have rights under the proposed or final settlement.** This means you will receive no further notifications and you will not be entitled to share in any relief that may be awarded by the Court. If you exclude yourself (opt out) you will not release any claims and will not be bound by any final judgment in this matter.

**If 12% or more members of the Settlement Class opt-out of the Settlement, Defendant has the option to cancel the settlement.**

### 12. WHAT IF I OBJECT TO THE TERMS OF THE PROPOSED SETTLEMENT?

Any Settlement Class Member may appear in person or through an attorney at the Final Fairness Hearing in order to oppose the fairness, reasonableness, and adequacy of the proposed settlement to the extent allowed by the Court, including the payment of Class Counsel's fees, reimbursement of expenses and costs and the Settlement Class Representative incentive award.

In order to oppose any of the proposed settlement terms, you must send **written** notice to the Court that includes: a statement of each objection being made; a description of the facts and legal basis for each objection; a statement of whether you intend to appear at the Final Fairness Hearing; a list of witnesses whom you may call by live testimony, oral deposition testimony or affidavit during the Final Fairness Hearing; and a list of exhibits that you may offer during the Final Fairness Hearing, along with copies of all of the exhibits. **You must also provide a copy of that notice to Class Counsel as well as the attorneys representing ERC in the case. All documents must contain a reference to *Hernandez v. Enhanced Recovery Company, LLC*, Docket No. MID-L-002640-12.**

Any Settlement Class Member who does not object in the manner provided above shall be deemed to have waived his/her objection and shall be foreclosed from opposing the fairness, reasonableness, or adequacy of the proposed settlement or payment of Class Counsel's fees and expenses or payment of the Settlement Class Representative incentive award.

Any written objection made by a Settlement Class Member **must** be sent to:

The Court

Deputy Clerk of the Court  
Superior Court of New Jersey  
Middlesex County Courthouse  
56 Paterson Street, P.O. Box 2633  
New Brunswick, New Jersey 08903-2633

Class Counsel

The Wolf Law Firm LLC  
Attn: *Hernandez v. ERC Settlement*  
1520 U.S. Highway 130, Suite 101  
North Brunswick, New Jersey 08902

ERC's Attorneys

Smith Gambrell & Russell LLP  
Attn: *Hernandez v. ERC Settlement*  
Bank of America Tower  
50 N. Laura Street, Suite 2600  
Jacksonville, Florida 32202

Your written objection and supporting documentation must be received by the Court, Class Counsel and ERC's attorneys no later than 5:00PM on October 31, 2013.

**13. IS THERE A DIFFERENCE BETWEEN OBJECTING TO THE PROPOSED SETTLEMENT AND EXCLUDING MYSELF FROM (OPTING OUT OF) THE SETTLEMENT CLASS?**

Yes. By objecting you are telling the Court that you will remain in the Settlement Class, but that you disagree with the proposed settlement. **You can object only if you remain in the Settlement Class and you may not object first and exclude yourself (opt out) later.**

Excluding yourself (opting out) is telling the Court that you do not want to be part of the Settlement Class and do not wish to participate in the proposed settlement. **If you exclude yourself (opt out), you cannot object.** Once you exclude yourself from (opt out of) the Settlement Class, the case no longer affects you.

**14. WHAT WILL HAPPEN AT THE FINAL FAIRNESS HEARING?**

At the Final Fairness Hearing, the Court will decide whether or not the proposed settlement is fair, reasonable and adequate, and also whether or not payment of the Settlement Class Representative incentive award should be approved. If there are objections, the Court may consider them. The Court will also decide, either at the Final Fairness Hearing or at a subsequent hearing, whether or not payment of Class Counsel's fees and reimbursement of Class Counsel's expenses and costs should be approved.

The Final Fairness Hearing is presently scheduled for 9:00AM on November 18, 2013, before the Honorable Vincent LeBlon, J.S.C. in Courtroom 203 at the Middlesex County Courthouse, which is located at 56 Paterson Street, New Brunswick, New Jersey, 08903.

Unless you wish to object to the proposed settlement, you are not required to attend the Final Fairness Hearing. You are welcome to attend at your own expense. The Court may adjourn the Final Fairness Hearing without further written notice to Settlement Class Members.

**ADDITIONAL INFORMATION**

**15. WHERE CAN I GET MORE DETAILS ABOUT THE CASE?**

Do not contact the Court for legal questions or advice.

You may obtain copies of the Complaint and other documents filed in this lawsuit during regular business hours from the Civil Records Office of the Superior Court of New Jersey in Middlesex County. You will need to provide the name of the lawsuit and the docket number: *Hernandez v. Enhanced Recovery Company, LLC*, Docket No. MID-L-002640-12.

You may also find additional information on the website established in connection with the administration of this class settlement at: [www.strategicclaims.net](http://www.strategicclaims.net)

**16. WHAT IF MY ADDRESS OR PHONE NUMBER CHANGES?**

If your address or phone number has changed, or changes in the future, you should send your new address and telephone number to the Settlement Administrator at the address listed in the answer to Question 10 above. You may also contact the Settlement Administrator by calling (866) 274-4004 or sending an e-mail to [info@strategicclaims.net](mailto:info@strategicclaims.net).

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SO ORDERED by the Superior Court of New Jersey, Law Division, Middlesex County.

\_\_\_\_\_ s/ *Honorable Vincent LeBlon, J.S.C.*