



Claim ID: 3097300000000

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT
Spitzer, et al. v. FRHI Hotels & Resorts (Canada), Inc.
San Bernardino County Superior Court Case No. CIVDS1712220

READ THIS NOTICE CAREFULLY
YOUR LEGAL RIGHTS MAY BE AFFECTED

All natural persons who: (1) during the period December 2, 2015 through November 28, 2016, inclusive, placed a call while physically located in California to one of Defendant's toll-free telephone numbers and spoke with a representative of Defendant; and (2) was either a California resident at the time such call was made or used a phone number with a California area code to place such call regardless of residency, 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	
Participate in the Settlement	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 March 15, 2018 , you will not receive a Settlement Payment.
Exclude Yourself from the Settlement	If you do not want to participate in the settlement, you must send a letter requesting exclusion postmarked no later than March 15, 2018 or else you will be bound by the settlement.
Object to the Settlement	If you wish to object to the settlement, you must follow the directions in this Notice. The deadline to object is March 15, 2018 .
Participate in the Hearing	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.
Do Nothing	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
TO EXERCISE THEM, ARE EXPLAINED BELOW**

Questions? Call 1-855-887-3478 or visit www.FRHICallRecordingSettlement.com

What is the Case About?

This class action case ("the Action") alleges that FRHI Hotels & Resorts (Canada), Inc. ("FRHI" or "Defendant") violated California laws that prohibit the recording of telephone calls without notice to or consent of callers. FRHI was the entity responsible for answering calls to Fairmont Hotel and Resorts toll-free telephone numbers. **The case covers calls made by natural persons who: (1) during the period December 2, 2015 through November 28, 2016, inclusive, placed a call while physically located in California to one of Defendant's toll-free telephone numbers and spoke with a representative of Defendant; and (2) was either a California resident at the time such call was made or used a phone number with a California area code to place such call regardless of residency.**

What is a Class Action?

In a class action, one or more people called Class Representatives (in this case, Mike Spitzer and Michelle Macomber) sue on behalf of people who have similar claims.

Am I a Class Member?

You are a Class Member if you are a natural person who called one or more of FRHI's toll-free telephone numbers during the period December 2, 2015 through November 28, 2016, inclusive (the "Class Period") while you were physically located in California, and spoke with a representative of FRHI, provided that you were either a California resident at the time such call was made or used a phone number with a California area code to place such call (even if you were not a California resident).

FRHI has a record of telephone numbers that called its toll-free telephone numbers during the Class Period. If you received notice of this proposed settlement by U.S. mail, email or otherwise, there are records indicating that you might be a member of the Class entitled to submit a Claim Form. You may be a Class Member even if you did not receive a notice of this proposed settlement if you made one or more calls to FRHI's toll-free telephone numbers as described in the highlighted language in the "What Is This Case About" section above. If you are not sure whether you qualify, you can contact the Claims Administrator by calling 1-855-887-3478 or by email at info@FRHICallRecordingSettlement.com to ask whether your telephone number or numbers appear on the list of calls routed through the call recording system during the Class Period.

Why is There a Settlement?

Both sides agreed to a settlement to avoid the uncertainty and cost of further litigation and a trial, and to provide benefits to Class Members promptly. The terms of the settlement are set forth in the Settlement Agreement and Release, which you may access through the settlement website, www.FRHICallRecordingSettlement.com, by calling 1-855-887-3478, by writing to the Claims Administrator at Spitzer v. FRHI Hotels & Resorts, c/o Heffler Claims Group, PO Box 58910, Philadelphia, PA 19102-8910, or by accessing the Court docket in this case through the Court's website at www.sb-court.org/Divisions/Civil/CaseInformationOnline.aspx and typing in the case number (CIVDS17172220). The Court did not decide in favor of the Class Representatives, Class Members or FRHI, and FRHI denies any

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liability or wrongdoing of any kind associated with the claims in this class action.

What Can I Get From The Settlement?

FRHI has agreed to create a settlement fund of \$3,500,000. After class action notice and administration fees and costs, a service payment to the Class Representatives, and Class Counsel's attorneys' fees and costs are deducted, the entire remaining amount will be divided up amongst all Class Members who submit timely and valid Claim Forms based on the number of qualified calls made by those Class Members. Although the actual amount paid out to individual Class Members will depend on the number of Class Members who submit timely and valid Claims Forms, based on claims rates in similar cases, it is estimated that each Class Member who submits a timely and valid Claim Form will receive approximately **\$100 per qualified call**, but not more than \$5,000 per qualified call, although the actual amount may be more or less than \$100.

The Claims Administrator can verify the number of telephone calls made by each telephone number during the Class Period. If you would like information regarding the number of telephone calls associated with your claim, you can contact the Claims Administrator by calling 1-855-887-3478 or by email at (info@FRHICallRecordingSettlement.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, Heffler Claims Group, by telephone (1-855-887-3478) or email (info@FRHICallRecordingSettlement.com) to submit a dispute. You may be required to provide proof of your telephone calls to Defendant during the Class Period. All disputes must be submitted by March 15, 2018, which 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.FRHICallRecordingSettlement.com, by calling 1-855-887-3478, or by writing to the Claims Administrator at Spitzer v. FRHI Hotels & Resorts, c/o Heffler Claims Group, PO Box 58910, Philadelphia, PA 19102-8910. You also may submit a completed Claim Form online at the Settlement Website, www.FRHICallRecordingSettlement.com. In order to submit a claim form online you must provide your 13-digit Claim ID# that can be found on the email notice you may have received, or on the Claim Form that was sent to you by U.S. Mail along with this Notice. You may also obtain the required code by contacting the Claims Administrator by telephone 1-855-887-3478 or email info@FRHICallRecordingSettlement.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 March 15, 2018.

What Am I Giving Up to Get Settlement Benefits or Stay In the Class?

Unless you exclude yourself, as described below, you will remain in the 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 FRHI or other Released Parties (defined

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below) about the issues in this case. Staying in the 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 entry of the Final Approval Order and Judgment, the Settlement Class Representatives 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 FRHI Hotels & Resolis (Canada) Inc. and its past or present direct and indirect parents, affiliates and subsidiaries (whether or not wholly owned) and their respective directors, officers, employees, agents, insurers, shareholders, members, attorneys, advisors, consultants, representatives, franchisees, franchisors, partners, affiliates, related companies, parents, subsidiaries (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, existing or suspected or unsuspected, that were or reasonably could have been asserted based on the factual allegations contained in the First Amended Complaint, or that relate to or arise out of the alleged recording, monitoring, or eavesdropping on telephone calls made to Defendant through November 28, 2016 (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 First Amended Complaint concerning the Fairmont hotel chain and 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. 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, recording or eavesdropping of telephone calls. The Settlement Class Representatives 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 Can I Expect To Receive My Settlement Payment?

The Court will hold a hearing on May 16, 2018 at 8:30 a.m., to decide whether to give final approval to the settlement. If the settlement is finally approved, payments may be made as soon as 30 days after this date but, depending on what happens in the case, payments may be delayed. You will be kept informed of the progress of the settlement through the dedicated settlement website at www.FRHICallRecordingSettlement.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 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 first class United States 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 covered by this class action settlement. Be sure to include your name, address, telephone number, and signature. Your letter requesting exclusion from the settlement must be postmarked no later than March 15, 2018 and mailed to:

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Spitzer v. FRHI Hotels & Resorts
c/o Heffler Claims Group
PO Box 58910
Philadelphia, PA 19102-8910

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

If I Don't Exclude Myself, Can I Sue the Defendants 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. If you have a pending lawsuit covering these same claims, speak to your lawyer in that case immediately. You must exclude yourself from this settlement to continue your own lawsuit.

Do I Have a Lawyer in the Case?

The Court has appointed Eric A. Grover of Keller Grover LLP, Scot Bernstein of Law Offices of Scot D. Bernstein, A Professional Corporation and Daniel F. Gaines and Alex P. Katofsky of Gaines & Gaines, APLC to represent you and other Class Members as Class Counsel. They will be paid from the settlement fund and you will not be charged 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 \$1,166,667 (one-third of the \$3,500,000 settlement fund) in attorneys' fees and an additional amount for out-of-pocket costs, which is estimated not to exceed \$25,000. 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 each of the two named plaintiffs for their service as Class Representatives. The Court may award less than these amounts. These amounts, along with the costs of settlement notice and administration, which are estimated not to exceed \$300,000, will be paid out of the \$3,500,000 settlement fund. Class Counsel will file with the Court their motion for award of attorneys' fees, litigation costs, administration costs and Class Representative's service payment no later than April 13, 2018.

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 and the lawsuit will continue.

Any objection to the proposed settlement must be in writing. All written objections and supporting papers must include: (1) the name and case number of the lawsuit (Spitzer, et al. v. FRHI Hotels & Resorts (Canada), Inc., San Bernardino County Superior Court Case No. CIVDS1712220); (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

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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 intends to appear personally at the final fairness hearing.

Objections must be submitted to the Claims Administrator by mailing them to Spitzer v. FRHI Hotels & Resorts, c/o Heffler Claims Group, PO Box 58910, Philadelphia, PA 19102-8910. Objections must be postmarked on or before March 15, 2018 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 must still submit a timely Claim Form if you want to receive the benefits of the settlement in the event the 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. You cannot both opt-out and submit a Claim Form. If you submit a timely Claim Form and opt-out request, the opt-out request shall be deemed void and the Claim Form will be processed under the terms of this Settlement Agreement.

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

The Court will hold a final fairness hearing regarding the settlement at 8:30 a.m. on May 16, 2018 at the San Bernardino County Superior Court, Department S25, 247 West Third Street, San Bernardino, California 92415. 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, the Class Representatives, and the Claims Administrator. The Court will also determine whether it is appropriate to distribute any leftover settlement funds to the designated cy pres beneficiary, the non-profit group Public Counsel. 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.FRHICallRecordingSettlement.com.

Do I Have to Come to the Hearing?

No. Class Counsel will answer questions the Court may have. But you are welcome to come 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 file 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

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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. 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.FRHICallRecordingSettlement.com, by calling 1-855-887-3478, by writing to the Claims Administrator at Spitzer v. FRHI Hotels & Resorts, c/o Heffler Claims Group, PO Box 58910, Philadelphia, PA 19102-8910, or by accessing the Court docket in this case through the Court's website at www.sb-court.org/Divisions/Civil/CaseInformationOnline.aspx and typing in the case number (CIVDSI712220). You also can contact Class Counsel:

<p>Eric A. Grover, Esq. KELLER GROVER LLP</p> <p>1965 Market Street San Francisco, California 94103</p> <p>Telephone: (415) 543-1305 Facsimile: (415) 543-7861 eagrover@kellergrover.com</p>	<p>Daniel F. Gaines, Esq. Alex P. Katofsky; Esq. GAINES & GAINES, APLC</p> <p>27200 Agoura Road, Suite 101 Calabasas, California 91301</p> <p>Telephone: (818) 703-8985 Facsimile: (818) 703-8984 daniel@gaineslawfirm.com alex@gaineslawfirm.com</p>	<p>Scot Bernstein, Esq. LAW OFFICES OF SCOT D. BERNSTEIN, A PROFESSIONAL CORPORATION</p> <p>101 Parkshore Drive, Suite 100 Folsom, California 95630</p> <p>Telephone: (916) 447-0100 Facsimile: (916) 933-5533 swampadero@sbernsteinlaw.com</p>
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PLEASE DO NOT CALL THE COURT, THE COURT CLERK'S OFFICE, FRHI OR DEFENDANT'S COUNSEL WITH ANY QUESTIONS RELATED TO THE SETTLEMENT.