

COURT AUTHORIZED NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT

**Our Records Indicate
You Were Sent A
Text Message For A
“Back To School” Promotion
In August or September 2008
For Lucky Brand Jeans.**

**You Could Get
Up To \$100
From A
Class Action Settlement.**

*Para una notificacion en Español,
visitor www.BackToSchoolTextSettlement.net*

“Back to School” Text Message
Settlement Administrator
P.O. Box 0000
Providence, RI 00000-0000

First-Class
Mail
US Postage
Paid
Permit #__



Postal Service: Please do not mark barcode

XXX

XXX—1234567-8

First Last
C/O
Addr1 Addr2
City, St ZipCode Country

“BACK TO SCHOOL” TEXT MESSAGE SETTLEMENT CLAIM FORM

THIS CLAIM FORM MUST BE SUBMITTED ONLINE OR POSTMARKED BY APRIL 19, 2013 AND MUST BE FULLY COMPLETED, BE SIGNED, AND MEET ALL CONDITIONS OF THE SETTLEMENT AGREEMENT. Instructions: Fill out each section of this form and sign where indicated.

Claim #: XXX-1234567-8 Name/Address Change, if any:
First Last _____
Address _____
City, State Zip Code _____

2008 Cell Phone Number that received the text message: (_____) _____ - _____

Email Address: _____ (Please provide either an email or phone number where

Contact Phone #: (_____) _____ - _____ you may be contacted if further information is required.)

Prohibition of Future Messages: Would you like your cell phone number removed from any database of phone numbers that may be in possession of Take 5 to which text messages could be sent in the future? Yes No

Class Member Verification: By submitting this claim form and checking the boxes below, I declare that I believe I am a member of the Settlement Class and that the following statements are true (each box must be checked to receive a payment):

- I received a text message promoting Lucky Brand Jeans between 8/24/08 and 9/15/08, from short code 88202.
- Prior to receiving this text message, I did not provide anyone with express consent to send me text messages promoting Lucky Brand.
- Under penalty of perjury, all information provided in this Claim Form is true and correct to the best of my knowledge and belief.

Signature: _____ Date (mm/dd/yyyy): ____/____/____

Print Name: _____

Your claim will be submitted to the Settlement Administrator for review. If accepted you will be mailed a check for \$100 or a lesser pro rata share. This process takes time, please be patient.

Questions, visit [www.\[website\].net](http://www.[website].net) or call [toll free number]

A settlement has been reached in a class action lawsuit claiming that unsolicited text messages were sent in August and September 2008 promoting Lucky Brand Dungarees, Inc.'s clothing by Kirshenbaum Bond Senecal & Partners d/b/a Lime Public Relations + Promotion, Kirshenbaum Bond & Partners West LLC, Merkle, Inc., and RGAR Holdings, LLC f/k/a Take 5 Solutions, LLC (together "Defendants"). The Plaintiffs claim that these text messages violated the federal Telephone Consumer Protection Act. The Defendants vigorously deny they violated any law, but have agreed to the settlement to avoid the uncertainties and expenses associated with continuing the case.

Am I a Class Member? Our records indicate you may be a Class Member. Class Members are people who were sent an unsolicited text message advertising Lucky Brand Jeans between August 24, 2008 and September 15, 2008.

What Can I Get? If the settlement is approved by the Court you can receive a \$100 payment, or a lesser proportionate amount if the expenses, fees, incentive award, and claims exceed the \$9.9 million Settlement Fund created by the Defendants. In addition, certain Defendants will put in place practices to make sure people who wish to receive text messages properly consent.

How Do I Get a Payment? You must submit a timely and properly completed Claim Form signed under penalty of perjury **no later than April 19, 2013**. You may use the Claim Form attached to this Notice or submit one online at www.BackToSchoolTextSettlement.net.

What are My Other Options? You may exclude yourself from the Settlement Class by sending a letter to the settlement administrator no later than April 5, 2013. If you exclude yourself, you cannot get a settlement payment, but you keep any rights you may have to sue the Defendants over the legal issues in the lawsuit. If you do not exclude yourself, you and/or your lawyer have the right to appear before the Court and/or object to the proposed settlement. Your written objection must be filed no later than April 5, 2013. Specific instructions about how to object to, or exclude yourself from, the Settlement are available at www.BackToSchoolTextSettlement.net. If you do not exclude yourself, and the Court approves the Settlement, you will be bound by all of the Court's orders and judgments; in addition, your claims relating to the allegedly unauthorized text messages in this case against the Defendants and other entities involved in their transmission will be fully and finally resolved and released.

Who Represents Me? The Court has appointed a team of lawyers from Edelson McGuire LLC to represent the class. These attorneys are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

When Will the Court Consider the Proposed Settlement? The Court will hold the Final Approval Hearing at 9:00 a.m. on May 10, 2013 at the Phillip Burton Federal Building & United States Courthouse, Courtroom 7, 450 Golden Gate Avenue, San Francisco, CA 94102. At that hearing, the Court will: hear any objections concerning the fairness of the settlement; determine the fairness of the settlement; decide whether to approve Class Counsel's request for attorneys' fees and expenses of up to 24.24% of the Settlement Fund; and decide whether to award the Class Representatives \$10,000 each, from the Settlement Fund for their services in helping to bring and settle this case. The Court may award less than these amounts.

How Do I Get More Information? For more information, including the full Notice, Claim Form and Settlement Agreement go to www.BackToSchoolTextSettlement.net, contact the settlement administrator at 1-____-____-____ or "Back to School" Text Message Settlement Administrator, [address], or call Class Counsel at 1-866-354-3015.

NO POSTAGE
NECESSARY
IF MAILED IN
THE UNITED
STATES

"Back to School" Text Message Settlement Administrator
c/o KCC Class Action Services
PO Box 0000
Providence, RI 00000-0000

XXX

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

IF YOU WERE SENT A TEXT MESSAGE IN AUGUST OR SEPTEMBER 2008 FOR A “BACK TO SCHOOL” PROMOTION BY LUCKY BRAND JEANS PLEASE READ THIS NOTICE CAREFULLY AS YOU MAY BE ENTITLED TO A \$100 PAYMENT FROM A CLASS ACTION SETTLEMENT.

A Federal Court authorized this notice. You are not being sued. This is not a solicitation from a lawyer.

- A Settlement has been reached in a class action lawsuit against Lucky Brand Dungarees, Inc. (“Lucky”) Kirshenbaum Bond Senecal & Partners d/b/a Lime Public Relations + Promotion, Kirshenbaum Bond & Partners West LLC (together “Lime”), Merkle, Inc. (“Merkle”), and RGAR Holdings, LLC f/k/a Take 5 Solutions, LLC (“Take 5”). The class action lawsuit involves whether text messages were sent to consumers in August and September 2008 as part of a “Back to School” advertising campaign without receiving the necessary consent to do so. Lucky, Lime, Merkle, and Take 5 are referred to as the “Defendants.”
- You are included if you live in the U.S. or its territories and you were sent a text message in August or September 2008 that advertised the “Back to School” promotion by Lucky Brand Jeans that was sent from the shortened telephone number 88202. The full text messages that were sent are listed below. [insert hyperlink]
- Those included in the Settlement will be eligible to receive a payment of up to \$100. Certain Defendants have also agreed to put in place procedures to better assure that future text messages are sent to persons who have consented to receive such messages. On the claim form, you can also have your cell phone number removed from any list or database of cell phone numbers that Take 5 may have to which text messages could be sent.
- Please read this notice carefully. Your legal rights are affected whether you act, or don’t act.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A CLAIM FORM	This is the only way to receive a payment and take your number off a list of cell phone numbers that are sent text messages.
EXCLUDE YOURSELF	You will receive no benefits, but you will retain any rights you currently have to sue the Defendants about the claims in this case.
OBJECT	Write to the Court explaining why you don’t like the Settlement.
GO TO THE HEARING	Ask to speak in Court about your opinion of the Settlement.
DO NOTHING	You won’t get a share of the Settlement benefits and will give up your rights to sue the Defendants about the claims in this case.

These rights and options—**and the deadlines to exercise them**—are explained in this Notice.

QUESTIONS? CALL 1-800-000-0000 TOLL FREE, OR VISIT WWW.BACKTOSCHOOLTEXTSETTLEMENT.NET
PARA UNA NOTIFICACIÓN EN ESPAÑOL, LLAMAR O VISITAR NUESTRO WEBSITE

BASIC INFORMATION

1. Why was this Notice issued?

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 give final approval to the Settlement. This Notice explains the lawsuit, the Settlement, and your legal rights.

The U.S. District Court for the Northern District of California is overseeing this case. The case is known as *Robles v. Lucky Brand Dungarees, Inc. et al*, No. 10-cv-04846. The persons who sued are called the Plaintiffs. The Defendants are Lucky Brand Dungarees, Inc., Kirshenbaum Bond Senecal & Partners d/b/a Lime Public Relations + Promotion, Kirshenbaum Bond & Partners West LLC, Merkle, Inc., and RGAR Holdings, LLC f/k/a Take 5 Solutions, LLC.

2. What is a Class Action?

In a class action, one or more people called class representatives (in this case, Juvenal Robles and Abel Figueroa) sue on behalf of a group or a “class” of people who have similar claims. In a class action, the court resolves the issues for all Class Members, except for those who exclude themselves from the Class.

3. What is this Lawsuit about?

This lawsuit claims that Defendants caused unsolicited text messages to be sent to consumers in August and September 2008 advertising Lucky Brand Jeans. These text messages were sent to consumers from the abbreviated phone number (called a “short code”) 88202. The lawsuit claims that Defendants violated the Telephone Consumer Protection Act because consumers did not consent to receive these text message advertisements. The Defendants deny they violated any law.

The Court has not determined who is right. Rather, the Parties have agreed to settle the lawsuit to avoid the uncertainties and expenses associated with ongoing litigation.

4. Why is there a Settlement?

The Court has not decided whether the Plaintiffs or the Defendants should win this case. Instead, both sides agreed to a Settlement. That way, they avoid the uncertainties and expenses associated with ongoing litigation, and Class Members will get compensation now rather than, if at all, years from now.

WHO’S INCLUDED IN THE SETTLEMENT?

5. How do I know if I am in the Settlement Class?

The Court decided that everyone who fits this description is a member of the **Settlement Class**:

All Persons Nationwide who from August 24, 2008 until September 15, 2008, were sent Text Message(s) promoting Lucky Brand Jeans' "Back to School" promotion from the short code 88202.

6. What type of text message ads were sent?

The text messages covered by the Settlement were part of a "Back to School" promotion and were sent between August 24, 2008 and September 15, 2008, offering discounts towards purchases at Lucky Brand Jeans. The text messages covered by this Settlement stated:

- Lucky Jeans mobile invite. Free alerts. Std carrier rates may apply. For help GET \$25 OFF NOW. To remove yourself reply STOP. To Opt-in Reply with LUCKYJ
- Get \$25 off at Lucky Brand Jeans Now. Just reply LUCKYJ Or Stop to opt out std rates apply. For help www.mbo.com
- Get \$25 off at Lucky Brand Jeans Now. Just reply LUCKYJ Or Stop to opt out std rates apply. For help LUCKYBRANDJEANS.COM
- Back to school sale going on at all Lucky Brand Jeans stores! Enter your zip to find one nearest you. <http://mbo.com/lucky.jsp>
- Get \$25 off at Lucky Brand Jeans Now. Just reply LUCKYJ Or Stop to opt out std rates apply
- Get \$25 off at Lucky Brand Jeans Now. Just reply LUCKYJ or to opt out reply STOP std rates apply
- Lucky Jeans mobile invite. Free alerts. Std carrier rates may apply. Get \$25 off NOW . To remove yourself reply STOP. To Opt-in Reply with LUCKYJ
- Get \$25 off any purchase of \$100 or more at LUCKY BRAND JEANS. Just show Student ID. Click link to find a store near you. Ends 9/7 <http://mbo.com/lucky.jsp>
- Last chance to get \$25 off any purchase of \$100 or more at LUCKY BRAND JEANS with Student ID. Click link to find a store near you. Ends 9/7 <http://mbo.com/lucky.jsp>

These text messages were sent from the "short code" 88202. A short code is an abbreviated telephone number that can be used by companies to send text messages in bulk. This short code will appear on the cell phone that received these text messages as well as on your cell phone bill as the "sender" of the message.

QUESTIONS? 1-800-000-0000 TOLL FREE, OR VISIT WWW.BACKTOSCHOOLTEXTSETTLEMENT.NET

THE SETTLEMENT BENEFITS

7. What does the Settlement provide?

Defendants have created a Settlement Fund totaling \$9.9 million. The cost to administer the Settlement, the cost to inform people about the Settlement, as well as attorneys' fees and payments to the Class Representatives will also come out of this fund (*see* Question 14). The amount remaining after deducting these costs will be paid to eligible Class Members who submit valid claims, up to \$100.

Protection from Future Unauthorized Messages: Lime, Merkle, and Take 5 have agreed not to send text messages to consumers who have not given their prior express consent in writing to receive them.

Removal Request: The Claim Form will provide you an opportunity to remove your cellphone number from any list or database of cell phone numbers that Take 5 may have to which text messages could be sent.

You can read a detailed description of the future protection applicable to the Defendants in the [Settlement Agreement](#). [insert hyperlink]

8. How much will my payment be?

If you are member of the Settlement Class, and the Court gives final approval to the Settlement, you may be entitled to receive up to \$100. The amount of your exact payment cannot be calculated at this time. Your payment will depend on the total number of valid claims that are filed. The Class contains approximately 216,711 members. Your payment may be reduced if the amount required to pay all claims made by the Settlement Class exceeds the amount available, after paying fees and expenses, from the Settlement Fund. In the event this occurs, each Class Member who filed a valid claim shall receive a reduced proportionate share of that Settlement Fund.

9. When will I get my payment?

You should receive a check from the settlement administrator within 60-90 days after the Settlement has been finally approved and/or after any appeals have been resolved in favor of the Settlement. The hearing to consider the final fairness of the Settlement is scheduled for May 10, 2013. All checks will expire and become void 90 days after they are issued.

HOW TO GET BENEFITS

10. How do I get benefits?

If you are a Class Member and you want to participate in the Settlement, you must complete and submit a truthful Claim Form by **April 19, 2013**. Claims Forms can be found and submitted on-line or you may have received a Claim Form in the mail with a summary of this notice. To submit a

QUESTIONS? 1-800-000-0000 TOLL FREE, OR VISIT WWW.BACKTOSCHOOLTEXTSETTLEMENT.NET

Claim Form on-line or to request a paper copy, go to www.BackToSchoolTextSettlement.net or call toll free, 1-800-000-0000.

We also encourage you to submit your claim electronically. Not only is it easier and more secure, but it is completely free and takes only minutes!

REMAINING IN THE SETTLEMENT

11. What am I giving up if I stay in the Class?

If the Settlement becomes final, you will give up your right to sue the Defendants for the claims being resolved by this Settlement. The specific claims you are giving up against the Defendants are described in Section 3 of the Settlement Agreement. You will be “releasing” the Defendants and all related people as described in Section 1.30 of the Settlement Agreement. Unless you exclude yourself (*see* Question 15), you are “releasing” the claims, regardless of whether you submit a claim or not. The Settlement Agreement is available through the “court documents” link on the website.

The Settlement Agreement describes the released claims with specific descriptions, so read it carefully. If you have any questions you can talk to Class Counsel for free or you can, of course, talk to your own lawyer if you have questions about what this means.

12. What happens if I do nothing at all?

If you do nothing, you won’t get any benefits from this Settlement. But, unless you exclude yourself, you won’t be able to start a lawsuit or be part of any other lawsuit against the Defendants for the claims being resolved by this Settlement.

THE LAWYERS REPRESENTING YOU

13. Do I have a lawyer in the case?

The Court has appointed Jay Edelson, Myles McGuire, and Ryan D. Andrews of Edelson McGuire LLC to be the attorneys representing the Settlement Class. They are called “Class Counsel.” They believe, after conducting an extensive investigation, that the Settlement Agreement is fair, reasonable, and in the best interests of the Settlement Class. You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

14. How will the lawyers be paid?

Subject to Court approval, Defendants have agreed to pay Class Counsel up to 24.24% of the Settlement Fund for attorneys’ fees and expenses for investigating the facts, litigating the case, and negotiating the Settlement in this matter. The Court may award less than this amount. Under the Settlement Agreement, any amount awarded to Class Counsel will be paid out of the Settlement Fund.

QUESTIONS? 1-800-000-0000 TOLL FREE, OR VISIT WWW.BACKTOSCHOOLTEXTSETTLEMENT.NET

Subject to approval by the Court, Defendants have agreed to pay \$10,000 to each Class Representative (for a collective award of \$20,000) from the Settlement Fund for their services in helping to settle this case.

EXCLUDING YOURSELF FROM THE SETTLEMENT

15. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must mail or otherwise deliver a letter (or request for exclusion) stating that you want to be excluded from the *Robles v. Lucky Brand Dungarees, Inc., et al.*, Case No. 10-cv-04846 settlement. Your letter or request for exclusion must also include your name, your address, the cellphone number that received the relevant text message(s), and your signature. You must mail your exclusion request no later than **[objection/exclusion deadline]**, to:

“Back to School” Text Message Settlement
0000 Street
City, ST 00000

16. 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 the Defendants for the claims being resolved by this Settlement.

17. If I exclude myself, can I get anything from this Settlement?

No. If you exclude yourself, do not submit a Claim Form to ask for benefits.

OBJECTING TO THE SETTLEMENT

18. How do I object to the Settlement?

If you’re a Class Member, you can object to the Settlement if you don’t like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must file with the Court a letter or brief stating that you object to the Settlement in *Robles v. Lucky Brand Dungarees, Inc., et al.*, No. 10-cv-04846 and identify all your reasons for your objections (including citations and supporting evidence) and attach any materials you rely on for your objections. Your letter or brief must also include your name, your address, your cellular telephone number that received the unauthorized text message(s), and your signature. You must all also mail or deliver a copy of your letter or brief to Class Counsel and Defendants’ Counsel listed below.

Class Counsel will file with the Court and post on this website its request for attorneys’ fees two weeks prior to April 5, 2013.

QUESTIONS? 1-800-000-0000 TOLL FREE, OR VISIT WWW.BACKTOSCHOOLTEXTSETTLEMENT.NET

If you want to appear and speak at the Final Approval Hearing to object to the Settlement, with or without a lawyer (explained below in answer to Question Number 22), you must say so in your letter or brief. File the objection with the Court and mail a copy to Class Counsel postmarked no later than **April 5, 2013**.

Court	Class Counsel
Robles v. Lucky Brand, No. 10-cv-04846 Clerk of the Court Phillip Burton Federal Building & United States Courthouse 450 Golden Gate Avenue San Francisco, CA 94102	Myles McGuire Edelson McGuire, LLC 350 North LaSalle St. Suite 1300 Chicago, IL 60654

19. What's the difference between objecting and excluding myself from the Settlement?

Objecting simply means telling the Court that you don't like something about the Settlement. You can object only if you stay in the Class. Excluding yourself from the Class 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.

THE COURT'S FINAL APPROVAL HEARING

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

The Court will hold the Fairness Hearing at 9:00 a.m. on **May 10, 2013** in Courtroom 7 on the 19th Floor of the Phillip Burton Federal Building & United States Courthouse, 450 Golden Gate Avenue, San Francisco, CA 94102. The purpose of the hearing will be for the Court to determine whether to approve the Settlement as fair, reasonable, adequate, and in the best interests of the Class; to consider the Class Counsel's request for attorneys' fees and expenses; and to consider the request for an incentive award to the Class Representatives. At that hearing, the Court will be available to hear any objections and arguments concerning the fairness of the Settlement.

The hearing may be postponed to a different date or time without notice, so it is a good idea to check [www.\[website\].net](http://www.[website].net) or call 1-800-000-0000. If, however, you timely objected to the Settlement and advised the Court that you intend to appear and speak at the Fairness Hearing, you will receive notice of any change in the date of such Fairness Hearing.

21. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. But, you are welcome to come at your own expense. If you send an objection or comment, you don't have to come to Court to talk about it. As long as you filed and mailed your written objection on time, the Court will consider it. You may also pay another lawyer to attend, but it's not required.

22. May I speak at the hearing?

QUESTIONS? 1-800-000-0000 TOLL FREE, OR VISIT WWW.BACKTOSCHOOLTEXTSETTLEMENT.NET

Yes. You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must include in your letter or brief objecting to the settlement a statement saying that it is your “Notice of Intent to Appear in *Robles v. Lucky Brand Dungarees, Inc. et al.*, No. 10-cv-04846.” It must include your name, address, telephone number and signature as well as the name and address of your lawyer, if one is appearing for you. Your objection and notice of intent to appear must be filed with the Court and postmarked no later than **April 5, 2013**, and be sent to the addresses listed in Question 18.

GETTING MORE INFORMATION

23. Where do I get more information?

This Notice summarizes the Settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement at www.BackToSchoolTextSettlement.net. You may also write with questions to “Back to School” Text Message Settlement, P.O. Box 0000, City, ST 00000. You can call the Settlement Administrator at 1-800-000-0000 or Class Counsel at 1-866-354-3015, if you have any questions. Before doing so, however, please read this full Notice carefully. You may also find additional information elsewhere on the case website.

Legal Notice

If you were sent a text message in August or September 2008 for a “Back to School” promotion for Lucky Brand Jeans you could get up to \$100 from a class action settlement.

Para una notificación en Español, visite [www.\[website\].net](http://www.[website].net)

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Internet Banner Notice

Panel #1: To be on-screen for approx. 2 to 3 seconds. Then replaced by Panel #2.

**Were you sent a text message in August or September 2008
for a “Back to School” promotion for Lucky Brand Jeans?**

Panel #2: To be on-screen for approx. 2 to 3 seconds. Then replaced by Panel #1.

**You could get up to \$100
from a class action settlement.**

The banner notices will be prepared in all the sizes required by the various websites that will be used in the Internet campaign, and with several different combinations of black or white type with different color backgrounds (blue, green, red, and yellow).