

**You may be entitled to a payment under a class action settlement if you subscribed to a service or campaign through one or more of the following websites between March 3, 2004 and November 6, 2009: Bid4Prizes, Altnet, Atzmi, Gatorarcade, IMatchUp.com, Zapsters, Ringtone Channel, Mobile Sidewalk, Ringtone.com, MMP3G.com (MxFocus and MM Trivia), Slimlizard, or Q121Mobile.**

*A court authorized this notice. This is not a solicitation by a lawyer.*

- The settlement will provide a refund—for up to three months of subscription—to consumers who were charged on their cellular telephone bills for each of the online services listed above.
- To qualify you must have been charged by Defendant (likely through your mobile phone carrier) for one or more of these online services/campaigns. Those who have already received a full refund of subscription fees are not included in the settlement class.
- Your legal rights are affected whether you act or don't act. Read this notice carefully.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>SUBMIT A CLAIM FORM</b>	The only way to get a payment. Your claim form is due by February 12, 2010.
<b>EXCLUDE YOURSELF</b>	Get no payment. This is the only option that allows you to ever be part of any other lawsuit against Atrinsic Inc., dba New Motion Inc., about the legal claims in this case.
<b>OBJECT</b>	Write to the Court about why you don't like the settlement.
<b>GO TO A HEARING</b>	Ask to speak in Court about the fairness of the settlement.
<b>DO NOTHING</b>	Get no payment. Give up rights.

- These rights and options—**and the deadlines to exercise them**—are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the settlement. Payments will be made if the Court approves the settlement and after appeals, if any, are resolved. Please be patient.

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## BASIC INFORMATION

### 1. What is the lawsuit about?

The Court in charge of the case is the Superior Court of the State of California for the County of Los Angeles, and the case is known as *Allen, et al. v. New Motion, Inc.*, Case No. BC386596. The person who sued is called the Plaintiff, and the company she sued, Atrinsic Inc., dba New Motion Inc. (“New Motion”) is called the Defendant.

The lawsuit generally involves claims relating to alleged unauthorized subscriptions and deceptive advertising. The Plaintiff alleges that she and others were fraudulently and unfairly billed by Defendant for a Bid4Prizes subscription through her cellular telephone carrier. Plaintiff further alleges that she and others never knowingly consented to the monthly subscription and never voluntarily used the Defendant’s services. Plaintiff further alleges that the same advertising campaigns and double opt-in process is used New Motion for all of its websites. New Motion denies these claims and contends that it obtained the consent of all subscribers and validated that consent through a double opt in process. The Court has not decided whether New Motion did anything wrong.

### 2. Why is this a class action?

In a class action, one or more people, called Class Representatives (in this case Ladonna Weaver), sue on behalf of people who have similar claims. All these people are Class or Settlement Class Members. One court resolves the issues for all Settlement Class Members, except for those who exclude themselves from the Class. Judge John Shepard Wiley Jr. is in charge of this class action and has determined that this case is a class action.

### 3. Why is there a settlement?

The Court did not decide in favor of Plaintiff or Defendant. Instead, both sides agreed to a settlement. While denying the allegations in the lawsuit, New Motion has agreed to the refund of subscription fees paid by you up to a total of three months, for each service or campaign subscribed to by you. The Class Representative and their attorneys think the settlement is in the best interests of members of the Class.

## WHO IS IN THE SETTLEMENT

To see if you will get money from this settlement, you first have to decide if you are a Settlement Class Member.

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

The Court has determined that everyone who fits this description is a Settlement Class Member:

*All persons in the United States who, between March 3, 2004 and November 6, 2009 were subscribed to one or more of the following services or campaigns operated by New Motion:*

- *Bid4Prizes*
- *Gatorarcade*
- *Altnet*
- *IMatchUp.com*
- *Zapsters*
- *Ringtone Channel*
- *Mobile Sidewalk*
- *Ringtone.com*
- *Slimlizard*
- *MMP3G.com (MxFocus and MM Trivia)*
- *Q121Mobile*
- *Atzmi*

Persons who received a full refund of subscription fees are NOT included in the Settlement Class.

### 5. I'm still not sure if I am included.

If you are still not sure whether you are included, you can fill out a claim form online at [www.newmotionclasssettlement.com](http://www.newmotionclasssettlement.com) to see if you qualify. Or, you may contact the Class Action Settlement Administrator by **EMAIL** at [newmotionclasssettlement@gardencitygroup.com](mailto:newmotionclasssettlement@gardencitygroup.com) or by **MAIL** at Allen et al. v. New Motion, Inc., c/o The Garden City Group, Inc., P.O. Box 9463, Dublin, OH 43017-4563.

## THE SETTLEMENT BENEFITS—WHAT YOU GET

### 6. What does the settlement provide?

The proposed settlement provides for the following:

1. New Motion has agreed to refund subscription fees paid by Settlement Class Members who submit a valid claim form, up to a total of three months, for each service or campaign subscribed to by the Settlement Class member. Depending on which service(s) or campaign(s) you subscribed to your monthly subscriptions are typically \$9.99/month. To obtain this refund, you must submit a claim form on or before February 12, 2010.
2. New Motion's disclosures in its advertisements, including pop-ups will comply with the Guidelines of the February 12, 2009 Assurance of Voluntary Compliance with the Florida Attorney General. This Court will retain jurisdiction to enforce the injunctive component of the settlement.

QUESTIONS? PLEASE VISIT [WWW.NEWMOTIONCLASSSETTLEMENT.COM](http://WWW.NEWMOTIONCLASSSETTLEMENT.COM)

3. New Motion will pay all of the expenses of providing notice of this Settlement and administration of the Settlement should it receive the Court's approval. Payment of these expenses are in addition to the benefits conferred upon the Class Members, and will not in any manner reduce the benefits accruing to Class Members pursuant to the Settlement.
4. Attorneys' fees and costs to Class Counsel will be awarded by the Court in its discretion. Class Counsel will request fees and costs in the amount of \$1 million to compensate them for their time and expenses litigating this case on behalf of the class. The funds will be paid by New Motion, and are in addition to the benefits conferred upon the Class Members. As such, any award of attorneys' fees and costs will not reduce the benefits accruing to Class Members pursuant to the Settlement in any manner.
5. An incentive award of \$10,000 will be paid by New Motion to the class representative, Ladonna Weaver, for her efforts on behalf of the class. Payment of this incentive compensation to the class representative is in addition to the benefits conferred upon the Class Members, and will not reduce the benefits accruing to Class Members pursuant to the Settlement in any manner.

## **HOW YOU GET A PAYMENT—SUBMITTING A CLAIM FORM**

### **7. How can I get a payment?**

To qualify for payment, you must submit a claim form. You can submit a claim form on the internet at [www.newmotionclasssettlement.com](http://www.newmotionclasssettlement.com). All online claims must be submitted no later than **February 12, 2010**. A claim form is also attached to this Notice or may be downloaded at [www.newmotionclasssettlement.com](http://www.newmotionclasssettlement.com). You may submit this claim form in the mail. If you choose to mail the form, read the instructions carefully, fill out the form, sign it, and mail it postmarked no later than February 12, 2010.

### **8. When would I get my payment?**

The Court will hold a hearing on January 28, 2010, to decide whether to approve the settlement. If Judge John Shepard Wiley Jr. approves the settlement after that, there may be appeals. It's always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. If there is no appeal you can expect your money around February 15, 2010. Everyone who sends in a claim form will be informed of the progress of the settlement. Please be patient.

## **9. What am I giving up to get a payment or stay in the Settlement Class?**

Unless you exclude yourself, you are staying in the Class, and that means that you cannot sue, continue to sue, or be part of any other lawsuit against Atrinsic Inc., dba New Motion Inc., about the legal issues in *this* case. It also means that all of the Court's orders will apply to you and legally bind you.

## **EXCLUDING YOURSELF FROM THE SETTLEMENT**

If you don't want money from this settlement, but you want keep your right to sue (or continue to sue) New Motion about the legal issues in this case, then you must take steps to get out. This is called excluding yourself — or is sometimes referred to as “opting out” of the Settlement Class.

## **10. How do I get out of the settlement?**

If you are a Class Member and do NOT wish to remain part of the Class, you may elect to exclude yourself (“opt-out”) provided that such request is made in writing and postmarked **on or before December 31, 2009**. You may request that the Court exclude you from the Class by sending a letter to the Settlement Administrator that includes the name of the case, the case number, your full name, address, telephone number, your signature, and a specific statement of your intention to exclude yourself from this lawsuit. Persons who exclude themselves from the Class will not be entitled to share in the benefits of the settlement and they will not be bound by any orders or judgment rendered in this case. If you do not exclude yourself from the Class by the deadline, you will be bound by the Settlement Agreement, including the release and dismissal, and any consequences the settlement might have on your right to any legal relief not sought in this action. In making a decision whether to remain a Settlement Class Member or to exclude yourself from the Class, please carefully review this notice.

*A request for exclusion must be made in writing, mailed to the Class Action Settlement Administrator, The Garden City Group, Inc., at the following address:*

Allen et al. v. New Motion, Inc.  
c/o The Garden City Group, Inc.  
P.O. Box 9463  
Dublin, OH 43017-4563.

**Your written request must be postmarked on or before December 31, 2009, and if you do not use the enclosed form, you must include the name of the case, the case number, your full name, address, telephone number, your signature, and a specific statement of your intention to exclude yourself from this lawsuit.**

If you do not enter an appearance on your own behalf or through counsel of your choosing at your expense, your interests will be represented by Plaintiff and her counsel: Khorrani, Pollard & Abir, 444 South Flower Street, 33rd Floor, Los Angeles, CA 90071, (213) 596-6000, facsimile no. (213) 596-6010.

You can't exclude yourself on the phone or by e-mail. If you ask to be excluded, you will not get any settlement payment, and you cannot object to the settlement. You will not be legally bound by anything that happens in this lawsuit. You may be able to sue (or continue to sue) New Motion in the future.

**11. If I don't exclude myself, can I sue New Motion for the same thing later ?**

No. Unless you exclude yourself, you give up the right to sue New Motion for the claims that this settlement resolves. If you have a pending lawsuit, speak to your lawyer in that lawsuit immediately. You must exclude yourself from *this* Class to continue your own lawsuit. Remember, the exclusion deadline is **December 31, 2009**.

**12. If I exclude myself, can I get money from this settlement?**

No. If you exclude yourself, you may not send in a claim form to ask for any money. But, you may sue, continue to sue, or be part of a different lawsuit against New Motion.

## **THE LAWYERS REPRESENTING YOU**

**13. Do I have a lawyer in this case?**

The Court asked the law firm of Khorrami, Pollard & Abir LLP, of Los Angeles, California to represent you and other Class Members. Together, the lawyers are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

## **OBJECTING TO THE SETTLEMENT**

You can tell the Court that you don't agree with the settlement or some part of it.

**14. How do I tell the Court that I don't like the settlement?**

At the Fairness/Final Approval hearing on January 28, 2010 the Court will hear any objections to the terms of the settlement, including attorneys' fees, costs and the incentive award. However, if you choose to object to any term of the settlement you must do **all** of the following:

- (a) Prepare a signed written Notice of Objection that includes (i) a detailed statement of the objections you are making, (ii) any supporting papers and evidence you intend to rely upon, (iii) facts demonstrating that you are a member of the Settlement Class, (iv) your name, address, and telephone number, or the name, address and telephone number of your attorney, and (v) a statement expressing your intent to appear at the Final Fairness Hearing; AND

- (b) File your written Notice of Objection with the Court no later than December 31, 2009; AND
- (c) Serve your written Notice of Objection on **both** of the Law Firms below no later than December 31, 2009: AND

Khorrami, Pollard & Abir LLP  
c/o New Motion Settlement Objection  
444 South Flower Street, 33<sup>rd</sup> Floor  
Los Angeles, CA 90071

-and-

Manatt, Phelps & Phillips, LLP  
c/o New Motion Settlement Objection  
11355 West Olympic Boulevard  
Los Angeles CA 90064-4000; AND

- (d) Appear (either personally or through an attorney of your choosing at your expense) at the hearing on the fairness and final approval of the Settlement Agreement.

**The Court will not consider any objection that fails to satisfy each of the above requirements.** Any Settlement Class Member who does not make an objection in the time and manner provided above shall be deemed to have waived such objection and forever shall be foreclosed from making any objection to the fairness or adequacy of the proposed Settlement, the payment of attorneys' fees and costs, or the Final Settlement Order and Judgment.

If you file your objections but the Court approves the settlement as proposed, you will still be eligible for settlement relief.

#### **15. What is the difference between objecting and excluding?**

Objecting is simply telling the Court that you don't like something about the settlement. You can object only if you stay in the Class. 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.

### **THE COURT'S FAIRNESS HEARING**

The Court will hold a hearing to decide whether to approve the settlement. You may attend and you may ask to speak, but you don't have to.

#### **16. When and where will the Court decide whether to approve the settlement?**

The Court will hold a Fairness Hearing at 8:30 a.m. on Thursday, January 28, 2010, at the Los Angeles Superior Court, 110 North Grand Ave. Los Angeles, CA 90012, Department 50. At this

hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. Judge John Shepard Wiley Jr. will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay Class Counsel. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take.

**17. Do I have to come to the hearing?**

No. Class Counsel will answer questions Judge John Shepard Wiley Jr. may have. But, you are welcome to come at your own expense.

**18. May I speak at the hearing?**

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must meet all of the requirements set forth in Question 14 above. You cannot speak at the hearing if you excluded yourself.

**IF YOU DO NOTHING**

**19. What happens if I do nothing at all?**

If you do nothing, you'll get no money from this settlement. But, unless you exclude yourself, you won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against New Motion about the legal issues in this case, ever again.

**GETTING MORE INFORMATION**

**20. Are there more details about the settlement?**

This notice summarizes the proposed settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement by visiting [www.newmotionclasssettlement.com](http://www.newmotionclasssettlement.com) or by writing to Khorrani, Pollard & Abir, 444 S. Flower St., 33rd Floor, Los Angeles, CA 90071.

**21. How do I get more information?**

You can write to the Class Action Settlement Administrator, The Garden City Group, Inc. at P.O. Box 9463, Dublin, OH 43017-4563; email [newmotionclasssettlement@gardencitygroup.com](mailto:newmotionclasssettlement@gardencitygroup.com), or visit the website at [www.newmotionclasssettlement.com](http://www.newmotionclasssettlement.com), where you can find answers to common questions about the settlement, submit a claim form, and find other information to help you determine whether you are a Class Member and whether you are eligible for a payment.

DATE: November 13, 2009.