

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

MATTIE CROSSLEY and SHERYL
SEYMOUR, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

JOYA COMMUNICATIONS, INC., a
Delaware corporation,

Defendant.

Case No. No. 16 CH 14771

STIPULATION OF CLASS ACTION SETTLEMENT

This Stipulation of Class Action Settlement (the “Agreement” or “Settlement”) is entered into by and among Plaintiffs Mattie Crossley and Sheryl Seymour (“Plaintiffs”), for themselves individually and on behalf of the Settlement Class (as defined below), and Defendant Joya Communications, Inc. (“Joya” or “Defendant”). Plaintiffs and Defendant are collectively referred to as the “Parties.” This Agreement is intended by the Parties to fully, finally, and forever resolve, discharge, and settle the Released Claims (as defined below) upon and subject to the terms and conditions hereof, and is subject to the approval of the Court.

RECITALS

WHEREAS, on February 12, 2016, Ahmad Gage, now deceased, filed a putative class action complaint against Joya in the United States District Court for the Eastern District of Pennsylvania, Case No. 2:16-cv-00708-RK (the “Pennsylvania Action”), alleging a claim for damages, an injunction, and declaratory relief under the Telephone Consumer Protection Act, 47 U.S.C. § 227 (“TCPA”), related to the alleged sending of unsolicited text message advertisements promoting its mobile phone application, Marco Polo, which allows users to share

video messages;

WHEREAS, Joya represented to Class Counsel that it is a “start-up” corporation lacking sufficient cash-on-hand to sustain a large judgment, or to fund a significant cash settlement, but was nevertheless interested in the possibility of resolving the case without the need for further protracted litigation;

WHEREAS, as a result of their ongoing discussions, the Parties agreed to participate in a private mediation with the Honorable Morton Denlow (ret.) of JAMS on June 30, 2016;

WHEREAS, immediately before the mediation, counsel learned that Mr. Gage had untimely passed away and indicated that, as such, they would be dismissing the Pennsylvania Action;

WHEREAS, Plaintiffs agreed to represent the Settlement Class for purposes of the mediation and the case more generally;

WHEREAS, on June 30, 2016, counsel for the Parties participated in a full-day mediation before Judge Denlow;

WHEREAS, as a result of their discussions and with Judge Denlow’s assistance, the Parties were able to reach a proposed class-wide resolution of the Actions (as defined below);

WHEREAS, on November 10, 2016, Plaintiffs file their putative class action complaint in the matter captioned *Crossley et al. v. Joya Communications, Inc.*, Case No. 16 CH 14771 (Cir. Ct. Cook Cnty., Ill.) (the “Illinois Action,” and collectively with the Pennsylvania Action, the “Actions”);

WHEREAS, Plaintiffs and Class Counsel have conducted a comprehensive examination of the law and facts relating to the matters at issue in the Actions regarding their claims, Joya’s potential defenses, and its financial condition;

WHEREAS, the Parties have engaged in extensive arm's-length settlement negotiations, including with the assistance of a third-party neutral;

WHEREAS, the Parties have engaged in informal discovery to confirm the information provided by Joya through the settlement negotiations;

WHEREAS, based on an analysis of the facts and the law applicable to Plaintiffs' claims and taking into account the burdens and expense of such litigation, including the risks and uncertainties associated with protracted trials and appeals, as well as the fair, cost-effective and assured method of resolving the claims of the Settlement Class, and Defendant's financial condition, Plaintiffs and Class Counsel have concluded that the Settlement provides substantial benefits to the Settlement Class and the public as a whole, and is fair, reasonable, adequate, and in the best interests of Plaintiffs and the Settlement Class;

WHEREAS, Joya denies all allegations of wrongdoing and liability and denies all material allegations in the complaints, but has similarly concluded that this Agreement is desirable to avoid the time, risk, and expense of defending protracted litigation and to resolve finally and completely the pending and potential claims of Plaintiffs and the Settlement Class;

NOW, THEREFORE, the Parties stipulate and agree that any and all Released Claims against Joya and all other Released Parties (as defined below), shall be finally settled and resolved on the terms and conditions set forth in this Agreement, subject to Court approval, as a fair, reasonable, and adequate settlement.

AGREEMENT

1. DEFINITIONS

As used herein, in addition to any definitions set forth elsewhere in this Agreement, the following terms shall have the meanings set forth below:

1.1 “**Actions**” means the Illinois Action (captioned *Crossley et al. v. Joya Communications, Inc.*, Case No. 16 CH No. 16 CH 14771 (Cir. Ct. Cook Cnty.)), and the Pennsylvania Action (captioned *Gage v. Joya Communications Inc.*, Case No. 2:16-cv-00708-RK (E.D. Pa.)).

1.2 “**Agreement**”, “**Settlement**” or “**Settlement Agreement**” means this Stipulation of Class Action Settlement.

1.3 “**Approved Claim**” means a Claim Form submitted by a Settlement Class Member that is (a) timely and submitted in accordance with the directions on the Claim Form and the terms of this Agreement, (b) is physically signed or electronically verified by the Settlement Class Member, and (c) satisfies the conditions of eligibility for a settlement payment as set forth in Sections 2 and 5.

1.4 “**Claim Form**” means the form attached hereto as Exhibit A, as approved by the Court. The Claim Form must be completed and physically signed or verified electronically by Settlement Class Members who wish to file a claim for a settlement payment, and shall be available for submission on or downloaded from the Settlement Website in hardcopy form. The Claim Form will require the Settlement Class Member to provide the following information: (a) full name, current address, telephone number, and e-mail address, and (b) a statement that he or she received a Promotional Text Message during the relevant period of time. The Claim Form will not require notarization, but will require that the information supplied is true and correct.

1.5 “**Claims Deadline**” means the date by which all Claim Forms must be postmarked or submitted on the Settlement Website established pursuant to Section 5.3(d) to be considered timely and shall be set as a date no later than one-hundred and eighty (180) days after the creation of the Settlement Fund, as provided below. The Claims Deadline shall be listed on

the Settlement Website, as well as in any secondary notice and the Claim Form.

1.6 “**Class Counsel**” means attorneys Jay Edelson and Eve-Lynn Rapp of Edelson PC.

1.7 “**Class Representatives**” means the named Plaintiffs in the Illinois Action, Mattie Crossley and Sheryl Seymour.

1.8 “**Court**” means the Circuit Court of Cook County, Illinois, the Honorable Michael Tully Mullen presiding, or any judge who shall succeed him as the Judge assigned to the Illinois Action.

1.9 “**Defendant’s Counsel**” means attorney Jeffrey S. Jacobson of Kelley Drye & Warren LLP.

1.10 “**Effective Date**” means one business day following the later of: (i) the date upon which the time expires for filing or noticing any appeal of the Final Judgment; (ii) if there is an appeal or appeals, other than an appeal or appeals solely with respect to attorneys’ fees and reimbursement of expenses, the date of completion, in a manner that finally affirms and leaves in place the Final Judgment without any material modification, of all proceedings arising out of the appeal(s) (including, but not limited to, the expiration of all deadlines for motions for reconsideration or petitions for review and/or certiorari, all proceedings ordered on remand, and all proceedings arising out of any subsequent appeal(s) following decisions on remand); or (iii) the date of final dismissal of any appeal or the final dismissal of any proceeding on certiorari with respect to the Final Judgment.

1.11 “**Escrow Account**” means the separate, interest-bearing escrow account to be established by the Settlement Administrator under terms acceptable to Class Counsel and Defendant at a depository institution insured by the Federal Deposit Insurance Corporation. The money in the Escrow Account shall be invested in the following types of accounts and/or

instruments and no other: (i) demand deposit accounts and/or (ii) time deposit accounts and certificates of deposit, in either case with maturities of forty-five (45) days or less. The costs of establishing and maintaining the Escrow Account shall be paid from the Settlement Fund.

1.12 “**Fee Award**” means the amount of attorneys’ fees and reimbursement of costs to Class Counsel as awarded by the Court.

1.13 “**Final Approval Hearing**” means the hearing before the Court where the Parties will request that the Final Judgment be entered by the Court finally approving the Settlement as fair, reasonable and adequate, and approving the Fee Award and the incentive awards to the Class Representatives.

1.14 “**Final Judgment**” means the final judgment to be entered by the Court approving the class settlement of the Illinois Action in accordance with this Agreement after the Final Approval Hearing and setting the date for Joya to create the Settlement Fund and provide notice to the Settlement Class of the ability to file a Claim Form and the Claims Deadline, the proposed version of which is attached hereto as Exhibit B.

1.15 “**Joya**” or “**Defendant**” means Defendant Joya Communications, Inc., a Delaware corporation.

1.16 “**Notice**” means the initial notice of this proposed Settlement Agreement and Final Approval Hearing, as well as a potential secondary notice of the creation of the Settlement Fund, the ability to file a Claim Form, and Claims Deadline which is to be disseminated to the Settlement Class substantially in the manner set forth in this Agreement, that fulfills the requirements of Due Process and 735 ILCS 5/2-801, and is substantially in the form of Exhibits C-F attached hereto.

1.17 “**Notice Date**” means the date upon which the Notice is first disseminated to the

Settlement Class, which shall be a date no later than thirty-five (35) days after entry of Preliminary Approval.

1.18 “**Objection/Exclusion Deadline**” means the period for the Settlement Class Members to submit a request for exclusion or file an objection, which shall expire forty-five (45) days following the Notice Date, subject to Court approval. The Objection/Exclusion Deadline will be set forth in the initial Notice and on the Settlement Website.

1.19 “**Person**” means any individual, corporation, trust, partnership, limited liability company, or other legal entity and their respective predecessors, successors or assigns. The definition of “Person” is not intended to include any governmental agencies or governmental actors, including, without limitation, any state Attorney General Office.

1.20 “**Plaintiffs**” means Mattie Crossley and Sheryl Seymour.

1.21 “**Preliminary Approval**” means the Court’s Order preliminarily approving the class action settlement, certifying the Settlement Class for settlement purposes, and approving the form and manner of the Notices, the proposed version of which is attached hereto as Exhibit G.

1.22 “**Promotional Text Message**” means a text message call that contained a hyperlink to Joya’s Marco Polo or VideoKik mobile app websites, onmarcopolo.com, nowpolo.com, videokiks.com, onpolo.com, and/or polo-app.com.

1.23 “**Released Claims**” means any and all claims or causes of action of every kind and description (including any causes of action in law, claims in equity, complaints, suits or petitions) and any allegations of wrongdoing (including any assertions of liability, debts, legal duties, torts, unfair or deceptive practices, statutory violations, contracts, agreements, obligations, promises, promissory estoppel, detrimental reliance, or unjust enrichment) and any

demands for legal, equitable or administrative relief (including any claims for injunction, rescission, reformation, restitution, disgorgement, constructive trust, compensatory damages, consequential damages, penalties, exemplary damages, punitive damages, attorneys' fees, costs, interest, or expenses) that the Releasing Parties had or have (including assigned claims and "Unknown Claims" as defined herein) that have been or could have been asserted in the Actions or in any other action or proceeding before any court, arbitrator, tribunal or administrative body (including any state, local or federal regulatory body), regardless of whether the claims or causes of action are based on the TCPA or any other federal, state, or local law, statute, ordinance, regulation, contract, common law, or any other source, and regardless of whether they are known or unknown, foreseen or unforeseen, suspected or unsuspected, or fixed or contingent, arising out of, or related or connected in any way with any and all Promotional Text Messages made by or for Joya to the Settlement Class, and all claims or causes of action of every kind and description that were brought, alleged, argued, raised, or asserted in any pleading or court filing in the Actions related to the Promotional Text Messages. Nothing herein is intended to release any claims any governmental agency or governmental actor has against Defendant or the Released Parties.

1.24 **"Released Parties"** means Defendant and any and all of its present or former heirs, executors, estates, administrators, predecessors, successors, assigns, parents, subsidiaries, associates, affiliated and related entities, employers, employees, agents, representatives, consultants, independent contractors, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, investment bankers, insurers, underwriters, shareholders, lenders, auditors, investment advisors, and any and all present and former companies, firms, trusts, corporations, officers, directors, other individuals or entities in

which Joya has a controlling interest or which is affiliated with any of them, or any other representatives of any of these Persons and entities.

1.25 “**Releasing Parties**” means Plaintiffs and their respective present or past heirs, executors, estates, administrators, predecessors, successors, assigns, parents, subsidiaries, associates, affiliates, employers, employees, agents, consultants, independent contractors, insurers, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, investment bankers, underwriters, lenders, and any other representatives of any of these Persons and entities.

1.26 “**Second Exclusion Deadline**” means the period for Persons in the Settlement Class to submit a request for exclusion, which shall expire forty-five (45) days following any additional secondary notice sent to the Settlement Class. The Second Exclusion Deadline will be set forth in any additional secondary notice and on the Settlement Website.

1.27 “**Settlement Administration Expenses**” means the expenses incurred by the Settlement Administrator in or relating to administering the Settlement, providing Notice, and other such related expenses, with all such expenses incurred prior to creation of the Settlement Fund to be paid by Joya and not to exceed two hundred thousand dollars (\$200,000.00), and any expenses incurred after that for providing secondary Notice, processing Claim Forms, and mailing checks for Approved Claims to be paid from the Settlement Fund.

1.28 “**Settlement Administrator**” means, subject to approval of the Court, Kurtzman Carson Consultants (“KCC”), which will oversee the Notice and the processing of Claim Forms and payment of Approved Claims.

1.29 “**Settlement Class**” means all Persons in the United States that received a Promotional Text Message related to Joya’s Marco Polo or VideoKik applications at any time

prior to Preliminary Approval. Excluded from the Settlement Class are: (1) the Judges presiding over the Actions and members of their families; (2) the Defendant, its subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or its parents have a controlling interest, and their present or former officers, directors, and employees; (3) Persons who properly execute and file a timely request for exclusion from the Settlement Class; (4) the legal representatives, successors or assigns of any such excluded Persons; and (5) Class Counsel and/or any member of Class Counsel's firm and their family.

1.30 “**Settlement Class Member**” or “**Class Member**” means a Person who falls within the definition of the Settlement Class and who does not request exclusion from the Settlement pursuant to Section 4.5.

1.31 “**Settlement Fund**” means a non-reversionary cash settlement fund to be established in accordance with Section 2.1(a)-(c) below.

1.36 “**Settlement Website**” means the website to be created, launched, and maintained by the Settlement Administrator, and which allows for the electronic submission of Claim Forms, the ability of members of the Settlement Class to update their contact information, and provides access to relevant case documents including the Notice, information about the submission of Claim Forms, and other relevant documents, including downloadable Claim Forms.

1.37 “**Unknown Claims**” means claims that could have been raised in the Action and that Plaintiffs, any member of the Settlement Class or any Releasing Party, do not know or suspect to exist, which, if known by him, her or it, might affect his, her or its agreement to release the Released Parties or the Released Claims or might affect his, her or its decision to agree, to object or not to object to the Settlement. Upon the Effective Date, Plaintiffs, the

Settlement Class, and the Releasing Parties shall be deemed to have, and shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Upon the Effective Date, each of the Releasing Parties shall be deemed to have, and shall have, waived any and all provisions, rights and benefits conferred by any law of any state, the District of Columbia or territory of the United States, by federal law, or principle of common law, or the law of any jurisdiction outside of the United States, which is similar, comparable or equivalent to Section 1542 of the California Civil Code. Plaintiffs, the Settlement Class, and the Releasing Parties acknowledge that they may discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of the Release, but that it is their intention to finally and forever settle and release the Released Claims, notwithstanding any Unknown Claims they may have, as that term is defined in this Section.

2. SETTLEMENT RELIEF

2.1 Monetary Payments to Settlement Class Members.

a. In the event that there is a sale, transfer or other disposition of all or substantially all of Joya's assets within the four (4) years following the Final Judgment, Joya shall establish a non-reversionary Settlement Fund in the amount equal to twelve percent (12%) of the value of the proceeds available for distribution to stockholders (including the stated value of any stock used as consideration), that is not to exceed three million seven hundred fifty thousand dollars (\$3,750,000.00).

b. In the event that there is no sale, transfer or other disposition of all or substantially all of Joya's assets within the four (4) years following the Final Judgment, Defendant shall, within seven (7) days after the fourth anniversary of the Final Judgment, either establish a Settlement Fund in the amount of three million seven hundred fifty thousand dollars (\$3,750,000.00), notify Class Counsel of its intention to void the Settlement, returning the Parties to the *status quo ante*, or of its intention to meet and confer with Plaintiffs' Counsel pursuant to Section 3.2.

c. Any amount payable as part of the Settlement Fund shall be deposited into the Escrow Account within the earlier of twenty-one (21) days after receipt of the proceeds from any sale or twenty-one (21) days after four (4) years after entry of Final Judgment. After creation of the Settlement Fund, the Settlement Administrator shall pay all subsequent Settlement Administration Expenses, all Approved Claims made by Settlement Class Members, and any Fee Award to Class Counsel, all from the Settlement Fund. Joya will have no further financial obligation with respect to this Settlement after forwarding the Settlement Fund.

d. Settlement Class Members shall have until the Claims Deadline to submit Claim Forms. Each Settlement Class Member who submits an Approved Claim shall be entitled to a payment of a *pro rata* share of the amount remaining in the Settlement Fund after payment of certain Settlement Administration Expenses and any Fee Award.

e. As provided above in the definition of "Claims Deadline," Class Members may continue to file claims for up to one hundred eighty (180) days after Joya has established the Settlement Fund. Within sixty (60) days after the Claims Deadline, or such other date as the Court may set, the Settlement Administrator shall pay from the Settlement Fund all Approved Claims by check and send said checks via first-class U.S. mail to the Settlement Class Members

who submitted all such Approved Claims.

f. All cash payments issued to Settlement Class Members via check will state on the face of the check that the check will expire and become null and void unless cashed within ninety (90) days after the date of issuance.

g. To the extent that a check issued to a Settlement Class Member is not cashed within ninety (90) days after the date of issuance, the check will be void, and such funds shall be distributed to an agreed organization or organizations pursuant to 735 ILCS 5/2-807(b).

h. In the event that the *pro rata* share of the amount remaining in the Settlement Fund after payment of certain Settlement Administration Expenses and any Fee Award would be less than three dollars (\$3.00) per Settlement Class Member, then, rather than paying the remainder of the Settlement Fund to Settlement Class Members, such monies shall be distributed *cy pres* to an agreed organization or organizations.

2.2 **Prospective Relief.** Defendant agrees that, to the extent it permits users of its mobile applications to invite others, by means of text messages, to download and use the applications, its text messaging programs will comply with the TCPA as interpreted by case law and regulatory guidance. Defendant agrees to maintain documentation of such compliance for a period of four (4) years.

3. RELEASE

3.1 **The Release.** Upon the Effective Date, and in consideration of the Settlement relief described herein, the Releasing Parties, and each of them, shall be deemed to have released, and by operation of the Final Judgment shall have, subject to the condition below, fully, finally, and forever, released, relinquished and discharged all Released Claims against each and every one of the Released Parties, except as provided directly below in Section 3.2.

3.2 **Condition on Release.** In the event that there is no sale, transfer or other disposition of all or substantially all of Defendant's assets within the four (4) years following the Final Judgment, and Defendant does not pay a Settlement Fund of three million seven hundred fifty thousand dollars (\$3,750,000.00) pursuant to Section 2.1(b), then Plaintiffs and Defendant shall, during the course of the following sixty (60) days, meet and confer respecting Defendant's potential ability to pay an amount less than three million seven hundred fifty thousand dollars (\$3,750,000.00). Alternatively, if Defendant liquidates, dissolves, and winds up within the four (4) years following the Final Judgment, Defendant shall meet and confer as soon as practicable regarding Defendant's potential ability to pay an amount less than three million seven hundred fifty thousand dollars (\$3,750,000.00). If after so conferring the Parties agree that further discussions are warranted, the Parties may mediate the payment of a lesser amount before the Honorable Morton Denlow (ret.) of JAMS or, in the event Judge Denlow is not available, another mutually agreeable mediator. At the conclusion of such mediation, Plaintiffs may, at their sole option, (i) ask the Court to accept a Settlement Fund payment less than three million seven hundred fifty thousand dollars (\$3,750,000.00), or (ii) void the Settlement Agreement. The Parties shall reach no agreement that the mediator does not endorse.

In the event that Parties seek and obtain the Court's approval of a Settlement Fund payment in an amount less than three million seven hundred fifty thousand dollars (\$3,750,000.00), secondary notice shall be given in accordance with the procedures set forth in Sections 4.2(a) and (b), and Persons in the Settlement Class will have an additional opportunity to submit a request for exclusion by no later than the Second Exclusion Deadline. In the event that Plaintiffs elect to void the Settlement Agreement pursuant to this Section, then the release provided by this Settlement and the Final Judgment shall be void with respect to all Settlement

Class Members, Defendant shall be deemed to have waived all arguments and defenses regarding any statute of limitations applicable to the claims asserted in the Action with respect to Settlement Class Members, and the Parties and the Settlement Class will be returned to the *status quo ante*.

4. NOTICE TO THE CLASS

4.1 The initial Notice shall include:

a. Direct Initial Notice Class List. No later than seven (7) days after Preliminary Approval of this Agreement, Defendant shall provide the Settlement Administrator with lists of (1) all email addresses it has on file belonging to Persons in the Settlement Class; (2) all contact information (including mobile telephone numbers) it has from any Persons who complained about the receipt of Promotional Text Messages from Defendant (including, by way of example only, persons who texted “stop,” or a similar message, in response to a Promotional Text Message); and (3) all mobile numbers that Defendant’s records reflect received Promotional Text Messages. .

b. Direct Initial Notice. No later than the Notice Date, the Settlement Administrator shall disseminate notice of the Settlement via email to Persons in the Settlement Class listed in category (1), above, with a valid email address. With respect to Persons in the Settlement Class listed in category (2), above, the Settlement Administrator will use reasonable commercial means to obtain email or mailing addresses for such persons, and disseminate notice of the Settlement to them by the most cost-effective means. The Settlement Notice shall be substantially in the form of Exhibits C and D attached hereto.

c. Online Media Campaign. The Settlement Administrator will design and implement a targeted online media campaign to provide notice to members of the Settlement

Class. Such ads shall, subject to the approval of the Court, be substantially in the form of Exhibit E attached hereto.

d. Settlement Website. Within twenty-eight (28) days after Preliminary Approval of this Agreement, including the form and content of the Notice, the Settlement Administrator shall cause the Settlement Website to be launched on the Internet in accordance with Section 5.3(d) of this Agreement. The Notice on the Settlement Website shall be substantially in the form of Exhibit F attached hereto.

4.2 The above-described initial notice program is calculated to reach a substantial percentage of the Settlement Class in a cost-effective manner, within Defendant's current financial constraints. In the event that the Settlement Fund is established pursuant to Sections 2.1 and 3.2, the Settlement Administrator shall undertake a program of secondary Notice, which shall take into account the amount of the Settlement Fund and be designed to ensure the maximum recovery for Settlement Class Members. The second Notice shall include some or all of the following:

a. Direct Secondary Notice. No later than twenty-one (21) days after the creation of the Settlement Fund, the Settlement Administrator may use reasonable commercial methods to determine email or mailing addresses for the persons in category (3) in Section 4.1(a), and disseminate notice of the creation of the Settlement Fund, the ability to file a Claim Form, and Claims Deadline via email to those persons and all others previously notified. The Notice shall be substantially in the form of Exhibits H and I attached hereto.

b. Secondary Online Media Campaign. The Settlement Administrator may design and implement a targeted online media campaign to provide notice of the creation of the Settlement Fund, the ability to file a Claim Form, and Claims Deadline to members of the

Settlement Class. Such ads shall, subject to the approval of the Court, be substantially in the form of Exhibit E attached hereto.

c. Secondary Settlement Website Notice. In the event of a second Notice, the notice on the Settlement Website shall be updated and substantially in the form of Exhibit J attached hereto.

4.3 The Notice issued pursuant to Section 4.1 shall advise the Settlement Class Members of their rights under the Settlement, including the right to be excluded from or object to the Settlement Agreement or its terms. The Notice shall specify that any objection to this Settlement Agreement, and any papers submitted in support of said objection, shall be received by the Court at the Final Approval Hearing, only if, on or before the Objection/Exclusion Deadline approved by the Court and specified in the Notice, the Person making an objection shall file notice of his or her intention to do so and at the same time (a) file copies of such papers he or she proposes to submit at the Final Approval Hearing with the Clerk of the Court, and (b) send copies of such papers via mail, hand, or overnight delivery service to Class Counsel and Defendant's Counsel. The secondary Notice issued pursuant to Section 4.2 shall only notify class members of their ability to file claims, the deadline to do so, and any Second Exclusion Deadline, if necessary.

4.4 **Right to Object or Comment.** Any Person in the Settlement Class who intends to intervene and object to this Settlement Agreement must present the objection in writing, which must be personally signed by the objector and must include: (i) the Person's full name and current address, (ii) the cellular telephone number the Person believes received the Promotional Text Message at issue, (iii) a statement that he or she believes himself or herself to be a Person in the Settlement Class, (iv) the specific grounds for the objection, (v) all documents or writings

that the Person desires the Court to consider, (vi) the name and contact information of any and all attorneys representing, advising, or in any way assisting the Person in connection with the preparation or submission of the objection or who may profit from the pursuit of the objection; and (vii) a statement indicating whether the Person intends to appear at the Final Approval Hearing (either personally or through counsel, who must file an appearance or seek *pro hac vice* admission). All written objections must be filed and postmarked no later than the Objection/Exclusion Deadline. Any Settlement Class Member who fails to timely file a written objection with the Court and notice of his or her intent to appear at the Final Approval Hearing in accordance with the terms of this Section and as detailed in the Notice, and at the same time provide copies to designated counsel for the Parties, shall not be permitted to object to this Settlement Agreement at the Final Approval Hearing, and shall be foreclosed from seeking any review of this Settlement Agreement by appeal or other means, and shall be deemed to have waived his or her objections and be forever barred from making any such objections in the Actions or any other action or proceeding.

4.5 **Right to Request Exclusion.** Any Person in the Settlement Class may submit a request for exclusion from the Settlement on or before the Objection/Exclusion Deadline. To be valid, any request for exclusion must (i) be in writing; (ii) identify the case name *Crossley et al. v. Joya Communications, Inc.*, Case No. 16 CH No. 16 CH 14771 (Cir. Ct. Cook Cnty., Ill.); (iii) state the name, address and telephone of the Person in the Settlement Class seeking exclusion; (iv) be physically signed by the Person(s) seeking exclusion; and (v) be postmarked or received by the Settlement Administrator on or before the Objection/Exclusion Deadline, or in the event of a secondary Notice, the Second Exclusion Deadline. Each request for exclusion must also contain a statement to the effect that “I/We hereby request to be excluded from the proposed

Settlement Class in *Crossley et al. v. Joya Communications, Inc.*, Case No. 16 CH No. 16 CH 14771 (Cir. Ct. Cook Cnty., Ill.).” A request for exclusion that does not include all of the foregoing information, that is sent to an address other than that designated in the Notice, or that is not postmarked within the time specified, shall be invalid and the Persons serving such a request shall be deemed to remain Settlement Class Members and shall be bound as Settlement Class Members by this Settlement Agreement, if approved. Any Person who elects to request exclusion from the Settlement Class shall not (i) be bound by any orders or Final Judgment entered in the Action, (ii) be entitled to relief under this Agreement, (iii) gain any rights by virtue of this Agreement, or (iv) be entitled to object to any aspect of this Agreement. No Person may request to be excluded from the Settlement Class through “mass” or “class” opt-outs.

5. CLAIMS PROCESS AND SETTLEMENT ADMINISTRATION

5.1 Submission of Claims. Upon creation of the Settlement Fund, Settlement Class Members will be given Notice and may submit electronically verified Claim Forms to the Settlement Administrator through the Settlement Website, or may download Claim Forms to be filled out, signed, and submitted physically by mail to the Settlement Administrator. Claim Forms must be submitted electronically or postmarked on or before the Claims Deadline. The Settlement Administrator may reject any Claim Forms that are incomplete, inaccurate, or not timely received.

5.2 Review of Claim Forms. The Settlement Administrator may reject a Claim Form, or any part of a claim for a payment reflected therein, where the Person submitting the Claim Form does not appear to be a Settlement Class Member. In addition, the Settlement Administrator shall be obliged to employ reasonable procedures to screen claims for abuse or fraud and deny Claim Forms where there is evidence of abuse or fraud. The Settlement

Administrator shall determine whether a Claim Form submitted by a Settlement Class Member is an Approved Claim and shall reject Claim Forms that fail to comply with the instructions thereon or the terms of this Agreement, after giving the claimant a reasonable opportunity to provide any requested missing information. In no event shall any Settlement Class Member have more than fourteen (14) days after being noticed by the Settlement Administrator of any question or deficiency in the submitted Claim Form to answer such question or cure such deficiency.

5.3 Settlement Administrator's Duties.

a. Cost-Effective Claims Processing. The Settlement Administrator shall administer the relief provided by this Agreement by processing Claim Forms in a rational, responsive, cost-effective and timely manner.

b. Dissemination of Notices. The Settlement Administrator shall disseminate the Notices as provided in Section 4 of this Agreement.

c. Maintenance of Records. The Settlement Administrator shall maintain reasonably detailed records of its activities under this Agreement. The Settlement Administrator shall maintain all such records as required by applicable law in accordance with its business practices and such records will be made available to Class Counsel and Defendant's Counsel upon request. The Settlement Administrator shall also provide reports and other information to the Court as the Court may require. Upon request, the Settlement Administrator shall provide Class Counsel and Defendant's Counsel with information concerning the Notice, administration, and implementation of the Settlement. Without limiting the foregoing, the Settlement Administrator shall:

i. Receive requests for exclusion from Persons in the Settlement Class and provide to Class Counsel and Defendant's Counsel a copy thereof within five (5) days

of the deadline for submission of the same. If the Settlement Administrator receives any requests for exclusion or other requests from Settlement Class Members after the Objection/Exclusion Deadline or the Second Exclusion Deadline, the Settlement Administrator shall promptly provide copies thereof to Class Counsel and Defendant's Counsel.

ii. Provide weekly or other periodic reports to Class Counsel and Defendant's Counsel that include, without limitation, reports regarding the number of Claim Forms received, the number of Claim Forms approved by the Settlement Administrator, and the categorization and description of Claim Forms rejected by the Settlement Administrator.

iii. Make available for inspection by Class Counsel and Defendant's Counsel the Claim Forms and any supporting documentation received by the Settlement Administrator at any time upon reasonable notice.

iv. Cooperate with any audit by Class Counsel or Defendant's Counsel, who shall have the right but not the obligation to review, audit, and evaluate all Claim Forms for accuracy, veracity, completeness and compliance with the terms and conditions of this Agreement.

d. Creation of Settlement Website. The Settlement Administrator shall create the Settlement Website. The Settlement Website shall contain information regarding how to submit Claim Forms (including submitting Claims Forms electronically through the Settlement Website) and relevant documents, including but not limited to a copy of the Notice, the Claim Form, this Agreement, the preliminary approval order entered by the Court, and the operative complaint in the Action. The Settlement Website shall also permit Settlement Class Members to provide contact information updates.

e. Requests for Additional Information. In the exercise of its duties outlined

in this Agreement, the Settlement Administrator shall have the right to reasonably request additional information from the Parties or any Settlement Class Member.

f. Timing of Settlement Payments. The Settlement Administrator shall make all settlement payments contemplated in Section 2 of this Agreement by check and mail them to Settlement Class Members within sixty (60) days after the Claims Deadline.

6. PRELIMINARY APPROVAL ORDER AND FINAL APPROVAL ORDER

6.1 **Preliminary Approval Order.** Promptly after execution of this Agreement, Class Counsel shall submit this Agreement to the Court and shall move the Court to enter a preliminary approval order, which shall include, among other provisions, a request that the Court:

a. Appoint Plaintiffs Mattie Crossley and Sheryl Seymour as the Class Representatives of the Settlement Class;

b. Appoint Class Counsel to represent the Settlement Class;

c. Certify the Settlement Class under 735 ILCS 5/2-801, *et seq.* for settlement purposes only;

d. Preliminarily approve this Agreement for purposes of disseminating Notice to the Settlement Class;

e. Approve the form and contents of the Notice and the method of its dissemination to members of the Settlement Class; and

f. Schedule a Final Approval Hearing to review comments and/or objections regarding this Agreement, to consider its fairness, reasonableness and adequacy, to consider the application for a Fee Award and incentive awards to the Class Representatives, and to consider whether the Court shall issue a Final Judgment approving this Agreement, granting Class Counsel's application for the Fee Award and the incentive awards to the Class Representatives,

and dismissing the Illinois Action with prejudice.

6.2 **Final Approval Order.** After the initial Notice to the Settlement Class is given, Class Counsel shall move the Court for entry of a Final Judgment, which shall include, among other provisions, a request that the Court:

a. find that it has personal jurisdiction over all Settlement Class Members and subject matter jurisdiction to approve this Settlement Agreement, including all attached Exhibits;

b. approve the Settlement Agreement and the proposed settlement as fair, reasonable and adequate as to, and in the best interests of, the Settlement Class Members; direct the Parties and their counsel to implement and consummate the Settlement Agreement according to its terms and conditions; and declare the Settlement Agreement to be binding on, and have *res judicata* and preclusive effect in, all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiffs and all other Settlement Class Members and Releasing Parties, subject to Section 3.2;

c. find that the initial Notice and proposed secondary Notice implemented pursuant to the Settlement Agreement (1) constitutes the best practicable notice under the circumstances, (2) constitutes notice that is reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action and their rights to object to or exclude themselves from this Settlement Agreement and to appear at the Final Approval Hearing, (3) is reasonable and constitutes due, adequate and sufficient notice to all persons entitled to receive notice, and (4) fulfills the requirements of Due Process and 735 ILCS 5/2-801;

d. find that the Class Representatives and Class Counsel adequately represented the Settlement Class for purposes of entering into and implementing the Agreement;

e. dismiss the Illinois Action on the merits and with prejudice, without fees or costs to any party except as provided in this Settlement Agreement;

f. incorporate the Release set forth above, make the Release effective as of the date of the Final Judgment, and forever discharge the Released Parties subject to Section 3.2 as set forth herein;

g. permanently bar and enjoin all Settlement Class Members who have not been properly excluded from the Settlement Class from filing, commencing, prosecuting, intervening in, or participating (as class members or otherwise) in, any lawsuit or other action in any jurisdiction based on the Released Claims;

h. authorize the Parties, without further approval from the Court, to agree to and adopt such amendments, modifications and expansions of the Settlement Agreement and its implementing documents (including all Exhibits to this Agreement) that (1) shall be consistent in all material respects with the Final Judgment, and (2) do not limit the rights of Settlement Class Members;

i. without affecting the finality of the Final Judgment for purposes of appeal, retain jurisdiction as to all matters relating to administration, consummation, enforcement and interpretation of the Settlement Agreement and the Final Judgment, and for any other necessary purpose;

j. explicitly state that should Joya fail to establish the Settlement Fund as set forth herein, the Settlement and Release provided by the Final Judgment shall automatically become void; and

k. incorporate any other provisions, consistent with the material terms of this Agreement, as the Court deems necessary and just.

6.3 **Cooperation.** The Parties shall, in good faith, cooperate, assist and undertake all reasonable actions and steps in order to accomplish these required events on the schedule set by the Court, subject to the terms of this Agreement.

7. **TERMINATION OF THE AGREEMENT**

7.1. The Class Representatives, on behalf of the Settlement Class Members, and Defendant shall have the right to terminate this Agreement by providing written notice of his, her or its election to do so (“Termination Notice”) to all other Parties hereto pursuant to Section 11 of this Agreement or within forty-five (45) days of: (i) the Court’s refusal to grant Preliminary Approval of the Agreement in any material respect, (ii) the Court’s refusal to enter the Final Judgment in any material respect, and (iii) the date upon which the Final Judgment is modified or reversed in any material respect by any appellate or other court. This termination right is separate from Plaintiffs’ unilateral right to terminate the Agreement and return the Parties to the *status quo ante*, as set forth in Section 3.2. Regardless of the circumstances of termination, Joya shall not be entitled to recoup the money it spent on Notice and Settlement Administration Expenses.

8. **INCENTIVE AWARD AND FEE AWARD**

8.1. **Incentive Awards.** In addition to any settlement payments under the Agreement and in recognition of their efforts on behalf of the Settlement Class, subject to Court approval, Defendant agrees that the Class Representatives shall each be entitled to an incentive award in the amount of one thousand dollars (\$1,000.00) (the “Incentive Award”), payable from the Settlement Fund. The Incentive Awards shall be payable in two parts, with the first two hundred and fifty dollars (\$250.00) being paid within fourteen (14) days after the Effective Date and the second seven hundred and fifty dollars (\$750.00) being paid at the same time the Fee Award is

paid as provided below. Defendant shall not object to or otherwise challenge, directly or indirectly, Class Counsel's application for the Incentive Award to the Class Representatives if limited to this amount. Class Counsel has, in turn, agreed to seek no more than this amount from the Court as the Incentive Awards for the Class Representatives.

8.2. The Fee Award.

a. Defendant has agreed that Class Counsel shall be entitled to an award of reasonable attorneys' fees and costs (the "Fee Award") in an amount to be determined by the Court and paid from the Settlement Fund. Class Counsel has agreed to limit their request for attorneys' fees and costs to no more than forty percent (40%) of the Settlement Fund. Defendant retains the right to challenge the fee request by filing papers prior to final approval.

b. The Fee Award shall be paid, in an amount to be determined by the Court, from the Settlement Fund within fourteen (14) days after the Claims Deadline. Payment of the Fee Award shall be made via wire transfer to an account designated by Class Counsel at Edelson PC after providing necessary information for electronic transfer.

9. REPRESENTATIONS AND WARRANTIES

9.1. Each signatory to this Agreement represents and warrants (i) that he, she, or it has all requisite power and authority to execute, deliver and perform this Agreement and to consummate the transactions contemplated herein, (ii) that the execution, delivery and performance of this Agreement and the consummation by it of the actions contemplated herein have been duly authorized by all necessary corporate action on the part of each signatory, and (iii) that this Agreement has been duly and validly executed and delivered by each signatory and constitutes her or its legal, valid and binding obligation.

10. NO ADMISSION OF WRONGDOING

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10.1. This Agreement, whether or not consummated, and any negotiations, proceedings or agreements relating to this Agreement, and any matters arising in connection with settlement negotiations, proceedings, or agreements:

- a. Shall not be admissible in any action or proceeding for any reason, other than an action to enforce the terms hereof;
- b. Shall not be described as, construed as, offered or received against the Released Parties as evidence of and/or deemed to be evidence of any presumption, concession, or admission by any Released Party of the truth of any fact alleged by Plaintiff; the validity of any claim that has been or could have been asserted in the Actions or in any litigation; the deficiency of any defense that has been or could have been asserted in the Actions or in any litigation; or any liability, negligence, fault, or wrongdoing of any of the Released Parties; and
- c. Shall not be described as or construed against the Released Parties, Plaintiffs, or any Settlement Class Members as an admission or concession that the consideration to be given hereunder represents the amount which could be or would have been awarded to said Plaintiffs or the members of the Settlement Class after trial.

11. CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL, CANCELLATION, OR TERMINATION

11.1 If the Effective Date or establishment of the Settlement Fund does not occur for any reason, or in the event that this Agreement is not approved by the Court, or the settlement set forth in this Agreement is terminated, then this Agreement shall be canceled and terminated subject to Section 11.2 unless Class Counsel and Defendant's Counsel mutually agree in writing to proceed with the Agreement. Notwithstanding anything in this Agreement, the Parties agree that the Court's failure to approve, in whole or in part, the attorneys' fees or Incentive Award sought by Class Counsel shall not prevent the Agreement from becoming effective, nor shall it

be grounds for termination.

11.2 If this Agreement is terminated or fails to become effective for any reason, the Parties and the Settlement Class Members shall be restored to their respective positions in the Illinois Action as of the date of the signing of this Agreement. In such event, any Final Judgment or other order, including but not limited to certifying any class for settlement purposes, entered by the Court in accordance with the terms of this Agreement shall be treated as vacated, *nunc pro tunc*, and the Parties and the Settlement Class Members shall be returned to the *status quo ante* with respect to the Illinois Action as if they had never entered into this Agreement, with Defendant reserving all rights to oppose class certification on any available basis.

12. MISCELLANEOUS PROVISIONS

12.1 **Entire Agreement.** This Agreement, including all exhibits hereto, shall constitute the entire Agreement among the Parties with regard to the subject matter hereof and shall supersede any previous agreements, representations, communications and understandings among the Parties. This Agreement may not be changed, modified, or amended except in writing signed by all Parties, subject to Court approval. The Parties contemplate that, subject to Court approval or without such approval where legally permissible, the exhibits to this Agreement may be modified by subsequent Agreement of counsel for the Parties prior to dissemination of the Notice to the Settlement Class.

12.2 **Governing Law.** This Agreement shall be construed under and governed by the laws of the State of Illinois, applied without regard to laws applicable to choice of law.

12.3 **Execution by Counterparts.** This Agreement may be executed by the Parties in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Facsimile signatures, electronic signatures, or

signatures sent via e-mail shall be treated as original signatures and shall be binding.

12.4 **Jurisdiction of the Court.** The Parties agree that the Court shall retain exclusive and continuing jurisdiction over the Illinois Action, the Parties, the Settlement Class Members, and the Settlement Administrator in order to interpret and enforce the terms, conditions, and obligations of this Agreement.

12.5 **Notices.** Any notice, instruction, application for Court approval or application for Court orders sought in connection with this Agreement or other document to be given by any Party to any other Party shall be in writing and delivered personally or sent by registered or certified mail, postage prepaid, if to Defendant to the attention of Defendant's Counsel, or if to Plaintiffs or the Settlement Class to Class Counsel, or to other recipients as the Court may specify. All notices to the Parties or counsel required by this Agreement, except requests for exclusion and objections, shall be made in writing and communicated by mail and e-mail to the following addresses:

If to Class Counsel:

Eve-Lynn Rapp
erapp@edelson.com
EDELSON PC
123 Townsend Street
Suite 100
San Francisco, California 94107

If to Defendant's Counsel:

Jeffrey S. Jacobson
jjacobson@kelleydrye.com
Kelley Drye & Warren LLP
101 Park Avenue
New York, New York 10178

12.6 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the heirs, successors, assigns, executors and legal representatives of each of the Parties hereto.

12.6 **Construction.** For the purpose of construing or interpreting this Agreement, the Parties agree that this Agreement is to be deemed to have been drafted equally by all Parties hereto and shall not be construed strictly for or against any Party.

12.7 **Severability.** The waiver or breach by one Party of any provision of this

Agreement shall not be deemed a waiver or breach of any other provision of this Agreement.

12.8 **Integration of Exhibits.** The exhibits to this Agreement are an integral and material part of the Settlement and are hereby incorporated and made a part of the Agreement.

12.9 **Recitals.** The recitals contained in this Agreement are incorporated into this Agreement and are made a part hereof.

12.10 **Headings.** The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

12.11 **Exclusive Remedy.** This Agreement shall be the sole and exclusive remedy of Settlement Class Members against any of the Released Parties relating to any and all Released Claims. None of the Released Parties shall be subject to liability or expense of any kind to any Settlement Class Member who has not timely filed a valid request for exclusion with respect to any Released Claim. Upon the entry of the Final Judgment, each and every Settlement Class Member shall be permanently barred and enjoined from initiating, asserting and/or prosecuting any Released Claim(s) against any of the Released Parties in any court, arbitration, tribunal, forum or proceeding, subject to Section 3.2.

12.12 **Good Faith.** The Parties will not act in any direct or indirect way to undercut and/or avoid the purpose of the Agreement, specifically but not limited to the provisions contained in Section 2.1.

IN WITNESS WHEREOF, each of the Parties hereto has caused this Agreement to be executed on its behalf by its duly authorized counsel of record, all as of the day set forth below.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

Dated: 12/22/2016

SHERYL SEYMOUR

By (signature): 

Name (printed): Sheryl Seymour

Title: _____

Dated: _____

MATTIE CROSSLEY

By (signature): _____

Name (printed): _____

Title: _____

Dated: _____

EDELSON PC

By (signature): _____

Name (printed): _____

Title: _____

Dated: _____

JOYA COMMUNICATIONS, INC.

By (signature): _____

Name (printed): _____

Title: _____

Dated: _____

KELLEY DRYE & WARREN LLP

By (signature): _____

Name (printed): _____

Title: _____

SHERYL SEYMOUR

Dated: _____

By (signature): _____

Name (printed): _____

Title: _____

MATTIE CROSSLEY

Dated: 12/21/2016

By (signature): *Mattie Crossley*

Name (printed): MATTIE CROSSLEY

Title: _____

EDELSON PC

Dated: 12/22/2016

By (signature): *Eve-Lynn J. Rapp*

Name (printed): Eve-Lynn J. Rapp

Title: Partner

JOYA COMMUNICATIONS, INC.

Dated: _____

By (signature): _____

Name (printed): _____

Title: _____

KELLEY DRYE & WARREN LLP

Dated: _____

By (signature): _____

Name (printed): _____

Title: _____

SHERYL SEYMOUR

Dated: _____

By (signature): _____

Name (printed): _____

Title: _____

MATTIE CROSSLEY

Dated: _____

By (signature): _____

Name (printed): _____

Title: _____

EDELSON PC

Dated: _____

By (signature): _____

Name (printed): _____

Title: _____

JOYA COMMUNICATIONS, INC.

Dated: 12/16/16

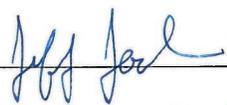
By (signature):  _____

Name (printed): Michal Bortnik

Title: CEO

KELLEY DRYE & WARREN LLP

Dated: 12/20/16

By (signature):  _____

Name (printed): Jeffrey S. Jacobson

Title: Partner

EXHIBIT A

CLAIM FORM

Instructions. The Settlement Fund has been established in this case. Fill out each section of this form and sign where indicated. All claims must be postmarked or filed on the settlement website on or before [**Claims Deadline**]

<u>First Name</u>		<u>Last Name</u>	
<u>Street Address</u>			
<u>City</u>	<u>State</u>	<u>ZIP Code</u>	
<u>Cellular Telephone Number You Received the Text Message On</u>			
<u>Email Address</u>			

Class Member Affirmation: By submitting this Claim Form and checking the box below, I declare that I believe I am a member of the Settlement Class and that the following statement is true (box must be checked to receive payment):

I received a text message from Joya regarding the mobile apps “Marco Polo” or “VideoKik.” These text messages contained a link to one of these websites: onmarcopolo.com, nowpolo.com, videokiks.com, onpolo.com, or polo-app.com.

Signature: _____

Date: ____ - ____ - ____
(MM-DD-YY)

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EXHIBIT B

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

MATTIE CROSSLEY and SHERYL
SEYMOUR, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

JOYA COMMUNICATIONS, INC., a
Delaware corporation,

Defendant.

Case No. 16 CH 14771

[PROPOSED] FINAL JUDGMENT AND ORDER OF DISMISSAL

This matter having come before the Court on Plaintiffs' Motion for and Memorandum in Support of Award of Attorneys' Fees and Costs, and Incentive Awards and Motion for and Memorandum in Support of Final Approval of Class Action Settlement (the "Motion for Final Approval") in the above-captioned matter between Plaintiffs Mattie Crossley and Sheryl Seymour ("Plaintiffs") and Defendant Joya Communications, Inc. ("Joya" or "Defendant") as set forth in the Stipulation of Class Action Settlement between Plaintiffs and Defendant (the "Settlement" or "Settlement Agreement"), and the Court having been advised in the premises, having duly considered the papers and arguments of all interested parties, and having held a Final Approval Hearing on [Final Approval Hearing Date], finds that:

1. Unless defined herein, all capitalized terms in this Order shall have the respective meanings ascribed to the same terms in the Settlement Agreement.
2. This Court has jurisdiction over the subject matter of the Illinois Action and personal jurisdiction over all Parties to the Action, including all Settlement Class Members.
3. On [Preliminary Approval Date], this Court preliminarily approved the

Settlement, and certified, for settlement purposes, the Settlement Class consisting of: “all Persons in the United States that received a Promotional Text Message related to Joya’s Marco Polo or VideoKik applications at any time prior to [Preliminary Approval Date].” A “Promotional Text Message” is any text message call that contained a hyperlink to Joya’s Marco Polo or VideoKik mobile app websites, including onmarcopolo.com, nowpolo.com, videokiks.com, onpolo.com, and/or polo-app.com. This Court now affirms certification of the Settlement Class.

4. Initial notice to the Settlement Class has been provided in accordance with the Court’s Preliminary Approval Order, and the substance of and dissemination program for the initial notice, which included direct mail notice, an online media campaign, and the creation of the Settlement Website, constituted the best notice practicable under the circumstances; constituted notice that was reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action and their rights to object to or exclude themselves from this Settlement Agreement and to appear at the Final Approval Hearing; was reasonable and provided due and sufficient notice to all persons entitled to notice of the settlement of this Action; and fully complied with the requirements of 735 ILCS 5/2-803 and due process. The Court confirms that the proposed secondary notice, if any should be necessary, fully complies with the requirements of 735 ILCS 5/2-803 and due process in form, method, and content.

5. The Settlement Agreement was the result of arm’s-length negotiations conducted in good faith by experienced attorneys familiar with the legal and factual issues of this case, was reached with the assistance of the Honorable Morton Denlow (ret.) of JAMS Chicago, and is supported by Plaintiffs and Class Counsel. The Class Representatives and Class Counsel adequately represented the Settlement Class for purposes of entering into and implementing the

Settlement Agreement. The preliminary appointment of Jay Edelson and Eve-Lynn J. Rapp of Edelson PC is hereby confirmed.

6. The Settlement as set forth in the Settlement Agreement is fair, reasonable, adequate, and in the best interests of the Settlement Class in light of the complexity, expense, and duration of litigation and the risks involved in establishing liability and damages and in maintaining the class action through trial and appeal.

7. The Settlement consideration provided under the Settlement Agreement constitutes fair value given in exchange for the release of the Released Claims against the Released Parties. The Court finds that the consideration to be paid to members of the Settlement Class is reasonable, considering the facts and circumstances of the claims and affirmative defenses available in the Action, and the potential risks and likelihood of success of alternatively pursuing trials on the merits.

8. Attached to this Order is a complete list of all Persons in the Settlement Class who have timely submitted a valid request for exclusion from the Settlement Class and, accordingly, shall neither share in nor be bound by the Final Judgment.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED THAT:

9. The Settlement Agreement is finally approved as fair, reasonable, adequate, and in the best interests of the Settlement Class. The Parties are directed to consummate the Settlement Agreement in accordance with its terms. The Parties and Settlement Class Members who did not timely exclude themselves from the Settlement Class are bound by the terms and conditions of the Settlement Agreement.

10. The Settlement Agreement is hereby finally approved in all respects, and the Parties are hereby directed to perform its terms. Defendant shall pay all Approved Claims, as

well as the Fee Award and Incentive Award, pursuant to and in the manner provided by the terms of the Settlement Agreement.

11. Other than as set forth in the Settlement Agreement and this Order, the Parties shall bear their own costs and attorneys' fees.

12. Subject to the terms and conditions of the Settlement Agreement, this Court hereby dismisses this case on the merits and with prejudice unless the Settlement Agreement is voided as a result of Defendant's failure to establish a Settlement Fund as set forth in the Settlement Agreement.

a. The Parties and Settlement Class Members are bound by the terms and conditions of the Settlement Agreement. Upon the Effective Date of the Settlement, Plaintiffs and each and every Settlement Class Member shall be deemed to have fully, finally, and forever, released, relinquished and discharged all Released Claims against each and every one of the Released Parties. Notwithstanding, should Defendant fail to establish the Settlement Fund as set forth in the Settlement Agreement, the Settlement and Release provided by this Final Judgment shall automatically become void and all Parties shall be returned to the *status quo ante*.

13. Upon the Effective Date, and unless the Settlement Agreement is ultimately voided, the above release of claims and the Settlement Agreement will be binding on, and have *res judicata* and preclusive effect in, all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiffs and all other Settlement Class Members, Releasing Parties, and their heirs, executors, administrators, successors, and assigns that involve the Released Claims. Unless the Settlement Agreement is voided, all Settlement Class Members who have not been properly excluded from the Settlement Class shall be permanently barred and enjoined from filing, commencing, prosecuting, intervening in, or prosecuting any Released

Claim(s) against any of the Released Parties in any court, arbitration, tribunal, forum or proceeding.

14. The Parties may, without further approval from the Court, agree to and adopt amendments, modifications and expansions of the Settlement and its implementing documents that shall be consistent in all material respects with the Final Judgment and do not limit the rights of the Settlement Class Members.

15. The Court awards to Class Counsel _____ % of the total Settlement Fund, which shall include all attorneys' fees and reimbursable costs associated with the Actions. Any Fee Award shall be paid from the Settlement Fund within fourteen (14) days after the Claims Deadline.

16. The Court awards each Class Representative an Incentive Award in the amount of \$ _____ for their time and effort serving the Settlement Class in this Action. The Incentive Awards shall be payable in two parts, with the first \$ _____ being paid within fourteen (14) days after the Effective Date and the second \$ _____ being paid at the same time the Fee Award is paid to Class Counsel.

17. The certification of the Settlement Class shall be binding only with respect to the settlement of the Action. In the event that the Agreement is terminated pursuant to its terms or the Court's approval of the Settlement is reversed, vacated, voided, or modified in any material respect by this or any other court, any Final Judgment or other order, including but not limited to certifying any class for settlement purposes, entered by the Court in accordance with the terms of the Agreement shall be deemed vacated, *nunc pro tunc*, and the Parties and the Settlement Class Members shall be returned to the *status quo ante* with respect to the Illinois Action as if they had never entered into the Settlement Agreement.

18. Without affecting the finality of this Final Judgment for purposes of appeal, the Court retains jurisdiction as to all matters related to the administration, consummation, enforcement, and interpretation of the Settlement Agreement and this Final Judgment, and for any other necessary purpose.

IT IS SO ORDERED this _____ day of _____, 2017.

HONORABLE MICHAEL TULLY MULLEN

EXHIBIT C

From: Settlement Administrator
To: «First1» «Last1»
Subject: Notice of Class Action Settlement

NOTICE OF CLASS ACTION SETTLEMENT

Crossley et al. v. Joya Communications, Inc., Case No. 16-CH-14771 (Cir. Ct. Cook Cnty.)

**IF YOU RECEIVED A TEXT MESSAGE PROMOTING
THE MOBILE APPS “MARCO POLO” OR “VIDEOKIK,”
A CLASS ACTION SETTLEMENT MAY AFFECT YOUR RIGHTS.**

For complete information, visit www.JoyaTCPASettlement.com or call [toll-free number].

A 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 Joya Communications, Inc., the creator of the “Marco Polo” and “VideoKik” mobile apps. The suit concerns whether Joya violated a federal law called the Telephone Consumer Protection Act (“TCPA”) by allegedly sending unsolicited text messages to promote its mobile apps. Joya denies any wrongdoing and maintains that the text messages do not violate the TCPA. The Settlement does not establish who is correct, but rather is a compromise to end the lawsuit.

- **Why Am I Being Contacted?** Our records show you may be a “Settlement Class Member.” Settlement Class Members are all Persons who live in the United States and received a text message from Joya regarding the mobile apps “Marco Polo” or “VideoKik.” These text messages would have contained a link to one of these websites: onmarcopolo.com, nowpolo.com, videokiks.com, onpolo.com, or polo-app.com
- **What Can I Get Out of the Settlement?** You may be entitled to payment under the Settlement if you file a Claim Form stating that you received such text messages from Joya. You cannot file a claim now. Because Joya is a start-up, it doesn’t have enough money to pay for the Settlement now, but it may later if, within the next four years, it is sold or starts making money. Under the Settlement Joya will create a Settlement Fund containing either (1) \$3.75 million, or (2) 12% of the sale price if Joya or its assets are sold, up to \$3.75 million. Class Members who submit valid claims will receive cash payments from this Settlement Fund after payment of fees and expenses. If Joya is unable to pay within four years, the Settlement will be void and Class Members will still be able to pursue claims against Joya. Joya also agreed to ensure that any text messages it sends comply with the law and to maintain records of its compliance for four years.
- **How Do I Get My Payment?** If you want to get payment when it becomes available, you must fill out and submit a valid Claim Form. Once the Settlement Fund has been created, an online Claim Form will be posted on the Settlement Website and can be filled out and submitted online. If you receive an email about the creation of the Settlement Fund, there will be a link to the Claim Form. You can get a paper claim form by calling [toll-free number] after the Settlement Fund has been created. You can also provide the Settlement Administrator with your contact information now through the Settlement Website or by contacting the Settlement Administrator at [include email and phone number], and the Settlement Administrator will let you know when the Claim Form becomes available. An additional round of notice will occur if a Settlement Fund is established.
- **What Are My Options?** You can do nothing, submit a Claim Form when the claims process opens, comment on or object to any of the Settlement terms, or exclude yourself from the Settlement. If you do nothing or submit a Claim Form when available, you won’t be able to sue Joya in a future lawsuit about the claims addressed in the Settlement, unless Joya does not pay the money required by the Settlement, in which case the Settlement will be void. If you exclude yourself, you won’t get a payment but you’ll guarantee that you keep your right to sue Joya on the issues the Settlement concerns. You must contact the Settlement Administrator by mail to exclude yourself. You can also object to the Settlement if you disagree with any of its terms. ***All Requests for Exclusion and Objections must be received by [exclusion/objection deadline].*** You will have a second opportunity to exclude yourself if the Settlement Fund is created.
- **Do I Have a Lawyer?** Yes. The Court has appointed lawyers from Edelson PC as “Class Counsel.” They represent you and other Settlement Class members. The lawyers will request to be paid from the Settlement Fund. You can hire your own lawyer, but you’ll need to pay your own legal fees. The Court has also chosen Mattie Crossley and Sheryl Seymour—Class Members like you—to represent the Class.
- **When Will the Court Approve the Settlement?** The Court will hold a final approval hearing on [date] at [time] at the Richard J. Daley Center, 50 West Washington St., Chicago, IL 60602 in Courtroom 2510. The Court will hear objections, determine if the settlement is fair, and consider Class Counsel’s request for fees and expenses (up to 40% of the Settlement Fund) and an incentive award (\$1000 for each Class Representative).

Visit www.JoyaTCPASettlement.com for complete information

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EXHIBIT D

NOTICE

received a text
promoting
mobile apps
to Polo” or
ik,” a class
tlement may
our rights.

original notice.

not used.

to this notice

at this notice

Class Action Administrator

P.O. Box xxxx

City, ST xxxxx-xxxx

«Barcode»

Postal Service: Please do not mark barcode

Claim#: JYC-«ClaimID»-«MailRec»

«First1» «Last1»

«CO»

«Addr2»

«Addr1»

«City», «St» «Zip»

«Country»

A Settlement has been reached in a class action lawsuit against Joya Communications, Inc., the creator of the “Marco Polo” and “Videokik” mobile apps. The suit concerns whether Joya violated a federal law called the Telephone Consumer Protection Act (“TCPA”) by allegedly sending unsolicited text messages to promote its mobile apps. Joya denies any wrongdoing and maintains that the text messages do not violate the TCPA. The Settlement does not establish who is correct, but rather is a compromise to end the lawsuit.

Why am I being Contacted? Our records show you may be a “Settlement Class Member.” Settlement Class Members are all Persons who live in the United States and received a text message from Joya regarding the mobile apps “Marco Polo” or “Videokik.” These text messages would have contained a link to one of these websites: onmarcopolo.com, nowpolo.com, videokiks.com, onpolo.com, or polo-app.com

What Can I Get Out of the Settlement? You may be entitled to payment under the Settlement if you file a Claim Form stating that you received such text messages from Joya. You cannot file a claim now. Because Joya is a start-up, it doesn’t have enough money to pay for the settlement now, but it may later if, within four years, it is sold or starts making money. Under the Settlement Joya will create a Settlement Fund containing either (1) \$3.75 million, or (2) 12% of the sale price if Joya or its assets are sold, up to \$3.75 million. Class Members who submit valid claims will receive cash payments from the Settlement Fund after payment of fees and expenses. If Joya is unable to pay within four years, the Settlement will be void. Joya also agreed to ensure that any text messages it sends comply with the law and to maintain records to its compliance for four years.

How do I Get My Payment? If you want to get payment from the Settlement Fund when it becomes available, you must fill out and submit a Claim Form. Once the Settlement Fund has been created, an online claim form will be posted on the Settlement Website and can be filed online and submitted online. If you received an email about the creation of the Settlement Fund, there will be a link to the Claim Form. You can also get a paper claim form by calling [toll-free number] after the Settlement Fund has been created. An additional round of notice will be sent if the Settlement Fund is established.

What are My Options? You can do nothing, wait to submit a Claim Form, comment on or object to any of the Settlement terms, or exclude yourself from the Settlement. If you do nothing or submit a Claim Form, you won’t be able to sue Joya in a future lawsuit about the claims addressed in the Settlement, unless Joya or its assets are not sold within four years of this settlement. But if Joya does not pay the money required within four years, the settlement will be void. If you exclude yourself, you won’t get a payment but you’ll guarantee that you keep your right to sue Joya on the issues the Settlement concerns. You must contact the Settlement Administrator by mail to exclude yourself. You can also object to the Settlement if you disagree with any of its terms. **All Requests for Exclusion and Objections must be received by [exclusion/objection deadline].** You will have a second opportunity to exclude yourself if the Settlement Fund is created.

Do I Have a Lawyer? Yes. The Court has appointed lawyers from Edelson PC as “Class Counsel.” They represent you and other Settlement Class members. The lawyers will request to be paid from the Settlement Fund. You can hire your own lawyer, but you’ll need to pay your own legal fees. The Court has also chosen Mattie Crossley and Sheryl Scymour—Class Members like you—to represent the Class.

When Will the Court Approve the Settlement? The Court will hold a final approval hearing on [date] at [time] at the Richard J. Daley Center, 50 West Washington St., Chicago, IL 60602 in Courtroom 2510. The Court will hear objections, determine if the settlement is fair, and consider Class Counsel’s request for fees and expenses (up to 40% of the Settlement Fund) and an incentive award (\$1000 for each Class Representative)

EXHIBIT E

If you received a text message from Joya Communications, Inc. regarding the mobile apps “Marco Polo” or “VideoKik” containing a link to onmarcopolo.com, nowpolo.com, videokiks.com, onpolo.com, or polo-app.com, a class action lawsuit may affect your rights.

Learn More

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EXHIBIT F

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Crossley et al. v. Joya Communications, Inc., Case No. 16-CH-14771 (Cir. Ct. Cook Cnty.)

If you received a text message promoting the mobile apps “Marco Polo” or “VideoKik,” a class action settlement may affect your rights.

A 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 Joya Communications, Inc., creator of the “Marco Polo” and “VideoKik” mobile apps. The suit concerns whether Joya violated a federal law called the Telephone Consumer Protection Act (“TCPA”) by allegedly sending unsolicited text messages to promote its mobile apps. Joya denies any wrongdoing and maintains that the text messages do not violate the TCPA. The Settlement does not establish who is correct, but rather is a compromise to end the lawsuit.
- You are a member of the “Settlement Class” if you live in the United States and received a text message from Joya regarding the mobile apps “Marco Polo” or “VideoKik.” These text messages would have contained a link to one of these websites: onmarcopolo.com, nowpolo.com, videokiks.com, onpolo.com, or polo-app.com.

You may be entitled to payment under the Settlement if you file a Claim Form stating that you received text messages from Joya. You cannot file a claim now. Because Joya is a start-up, it doesn’t have enough money to pay for the Settlement now, but it may later if it is sold or starts making money. Under the Settlement, within four years Joya will create a Settlement Fund containing either (1) \$3.75 million, or (2) 12% of the sale price if Joya or its assets are sold, up to \$3.75 million. Class Members who submit valid claims will receive cash payments from the Settlement Fund after payment of fees and expenses. If Joya is unable to pay within four years, the Settlement will be void and Class Members will still be able to pursue claims against Joya. Joya also agreed to ensure that any text messages it sends comply with the law and maintain document of such compliance for four years.

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YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

SUBMIT A CLAIM FORM	This is the only way to receive a payment. You can only submit a claim after the settlement fund is created.
EXCLUDE YOURSELF	You will receive no payment, but you will retain any rights you currently have to sue Joya about the issues in this case.
OBJECT	Write to the Court explaining why you don’t like the Settlement.
ATTEND A HEARING	Ask to speak in Court about the fairness of the Settlement.
DO NOTHING	You will receive no payment under the Settlement and give up your rights to sue the Joya about the issues in this case if the Settlement Fund is created.

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 provided only after any issues with the Settlement are resolved and Joya has enough money to put into the Settlement Fund. Please be patient.

BASIC INFORMATION

1. What is this notice and why should I read it?

A Court authorized this notice to let you know about a proposed Settlement with Joya. You have legal rights and options that you may act on before the Court decides whether to approve the proposed Settlement. You may be eligible to receive a cash payment as part of the Settlement. This notice explains the lawsuit, the Settlement, and your legal rights.

Judge Michael T. Mullen of the Circuit Court of Cook County, Illinois is overseeing this class action. The case is called *Crossley et al. v. Joya Communications, Inc.*, Case No. 16-CH-14771. Mattie Crossley and Sheryl Seymour are the Plaintiffs. The company they sued, Joya, is the Defendant. You do not need to live in Illinois to get a payment under this Settlement.

2. What is a class action lawsuit?

A class action is a lawsuit in which one or more plaintiffs—in this case, Mattie Crossley and Sheryl Seymour—sue on behalf of a group of people who have similar claims. Together, this group is called a “Class” and consists of “Class Members.” In a class action, the court resolves the issues for all class members, except those who opt out of the class. After the Parties reached an agreement to settle this case, the Court granted preliminary approval of the Settlement and recognized it as a case that should be treated as a class action for settlement purposes.

THE CLAIMS IN THE LAWSUIT AND THE SETTLEMENT

3. What is this lawsuit about?

The lawsuit alleges that Joya violated the TCPA by sending unsolicited text messages to promote its mobile apps “Marco Polo” and “VideoKik.”

Joya denies the allegations that the text messages violated the law. No court has decided who is right. Plaintiffs and Joya are entering into the Settlement to avoid time-consuming and expensive litigation. The Settlement is not an admission of wrongdoing by the Joya. More information about the complaint in the lawsuit and Joya’s answers can be found in the “Court Documents” section of the settlement website at www.JoyaTCPASettlement.com.

4. Why is there a Settlement?

The Court has not decided whether the Plaintiffs or the Defendant should win this case. Instead, Plaintiffs and Joya have agreed to a Settlement. That way, they can avoid the uncertainty and expense of ongoing litigation, and Class Members can potentially get compensation. The Class Representatives and their attorneys (“Class Counsel”) believe that the Settlement is in the best interests of the Class Members.

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WHO'S INCLUDED IN THE SETTLEMENT?

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

The Court decided that this Settlement Class includes all Persons in the United States that received a Promotional Text Message relating to Joya's Marco Polo or VideoKik applications. If you meet the above definition, you are a Class Member.

6. What were the allegedly unconsented text messages about?

The text messages covered by this Settlement promoted Joya's mobile apps "Marco Polo" and "VideoKik." The text messages would have included an individual's name, and a link to one of the following websites: onmarcopolo.com, nowpolo.com, videokiks.com, onpolo.com, and/or polo-app.com.

THE SETTLEMENT BENEFITS

7. What does the Settlement provide?

Cash Payments to Class Members: Either four year from now, or sooner if Joya is sold, Joya has agreed to create a Settlement Fund containing either (1) \$3.75 million, or (2) 12% of the sale price if Joya or its assets are sold, up to \$3.75 million. Class Members who submit valid claims will receive cash payments from this Settlement Fund after payment of all Settlement Administration Expenses, any incentive award to the Class representatives, and any Fee Award. There is no money available now because Joya is a start-up technology company. It does not have enough money to pay Class Members a meaningful Settlement. The Settlement provides the best potential for substantial benefits to Class Members and the public as a whole, and is fair, reasonable, adequate, and in the best interests of Class Members given Joya's uncertain financial future. In the event that Joya does not succeed and earns no money to pay Class Members, it is possible Class Members will receive no payment from this Settlement, but if that occurs, Class Members will not give up any rights and can still pursue claims against Joya. .

All un-cashed checks issued to Class Members, and if the amount of each Class Member's claim is less than \$3, will be distributed to an agreed organization or organizations pursuant to 735 ILCS 5/2-807(b).

Change in Practices: Joya also agrees that if it permits users of its mobile apps to invite others by text message to download and use its apps, its text messaging program will comply with the law and that it will maintain documents evidencing such compliance.

HOW TO GET BENEFITS

8. How do I make a claim?

If you want to get payment when it becomes available, you must fill out and submit a valid Claim Form when Claim Forms become available. If you want the Settlement Administrator to notify you when Claim Forms become available, you can provide the Settlement Administrator with your contact information now through the Settlement Website or by contacting the Settlement Administrator at [include email and phone number]. The Settlement Administrator also will provide a new round of notices to the Settlement Class if and when a Settlement Fund is established. Once the Settlement Fund has been created, an online Claim Form will become available on this Settlement Website and can be filled out and submitted online. At that time, you can also get a paper Claim Form by calling [toll-free number]. We encourage you to submit a claim online. It's faster and it's free.

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The Claim Form will require you to provide the following information: (1) name, (2) current U.S. mail and email address, (3) telephone number that received the text messages, and (4) affirmation that you received a text message from Joya regarding the mobile apps “Marco Polo” or “VideoKik.”

9. When will I get my payment?

The hearing to consider the fairness of the Settlement is scheduled for [Final Approval Hearing Date]. If the Court approves the Settlement, Joya will then have four years to pay \$3.75 million or 12% of its sale price into the Settlement Fund. Class Members will have 180 days to file claims after the Settlement Fund is created. Class Members whose claims were approved by the Settlement Administrator will be sent a check. Please be patient. All checks will expire and become void 90 days after they are issued.

THE LAWYERS REPRESENTING YOU

10. Do I have a lawyer in this case?

Yes, the Court has appointed lawyers Jay Edelson and Eve-Lynn J. Rapp of Edelson PC as the attorneys to represent you and other Class Members. These attorneys are called “Class Counsel.” In addition, the Court appointed Plaintiffs Mattie Crossley and Sheryl Seymour to serve as the Class Representatives. Each is a Class Member like you. Class Counsel can be reached by calling 1-866-354-3015.

11. Should I get my own lawyer?

You don't need to hire your own lawyer because Class Counsel is working on your behalf. But if you want your own lawyer, you will have to pay that lawyer. For example, you can ask your lawyer to appear in Court for you or you want someone other than Class Counsel to represent you.

How will the lawyers be paid?

Class Counsel are only paid if Class Members receive payment. Class Counsel will ask the Court for attorneys' fees and expenses of up to 40% of the Settlement Fund Joya creates. Class Counsel will also request that Plaintiffs Crossley and Seymour each receive \$250 when this Settlement is approved for their work as Class Representatives and another \$750 when the Settlement Fund is created. The Court will determine the proper amount of any attorneys' fees and expenses to award Class Counsel and the proper amount of any award to the Class Representatives. The Court may award less than the amounts requested. Any money not awarded will stay in the Settlement Fund to pay Class Members.

YOUR RIGHTS AND OPTIONS

13. What happens if I do nothing at all?

If you do nothing, you will receive no payment under the Settlement, you will be in the Class, and if the Court approves the Settlement, you will also be bound by all orders and judgments of the Court. Unless you exclude yourself, you won't be able to start a lawsuit or be part of any other lawsuit against the Defendant for the claims or legal issues being resolved by this Settlement.

14. What happens if I ask to be excluded?

If you exclude yourself from the Settlement, you will receive no payment under the Settlement. However, you will not be in the Class. You will keep your right to start your own lawsuit against Joya for the same legal claims made in this lawsuit. You will not be legally bound by the Court's judgments related to the Class and Joya in this class action.

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15. How do I ask to be excluded?

You can ask to be excluded from the Settlement. To do so, you must send a letter stating that you want to be excluded from the Settlement in *Crossley et al. v. Joya Communications, Inc.*, Case No. 16-CH-14771. Your letter must also include your (1) name, address, and telephone number (2) a statement that you wish to be excluded from the Class, (3) the caption for this case, and (4) your signature. You must mail your exclusion request no later than **[objection / exclusion deadline]** to:

Crossley et al. v. Joya Communications, Inc. Settlement Administrator
P.O. Box 0000, City, ST 00000-0000

You can't exclude yourself on the phone or by email. You will have a second opportunity to exclude yourself if the Settlement Fund is created.

16. If I don't exclude myself, can I sue the Defendant for the same thing later?

No, unless Joya fails to establish the Settlement Fund within four years of the approval of the Settlement (in which case the Settlement is void).

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

No. If you exclude yourself, you cannot submit a Claim Form to ask for a payment. You can, however, wait to decide whether to exclude yourself until after the Settlement Fund is created.

18. How do I object to the Settlement?

If you do not exclude yourself from the Class, 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 deny approval by filing an objection. To object, you must file a letter or brief with the Court stating that you object to the Settlement in *Crossley et al. v. Joya Communications, Inc.*, Case No. 16-CH-14771 no later than **[objection / exclusion deadline]**. Your objection should be sent to the Cook County Circuit Court at the following address:

Clerk of the Circuit Court of Cook County-Chancery Division
Richard J. Daley Center, 8th Floor
50 West Washington Street
Chicago, Illinois 60602

If you are represented by a lawyer, the lawyer must file your objection through the Clerk of the Court or electronic case filing. Include your lawyer's contact information in the objection.

The objection must be in writing and include the case name *Crossley et al. v. Joya Communications, Inc.*, Case No. 16-CH-14771. Your objection must be personally signed and include the following information: (1) your name, address, and telephone number (2) all arguments, citations, and evidence supporting your objection, including copies of any documents you rely on, (3) a statement that you are a Class Member, and (4) the name and contact information of any and all attorneys representing, advising, or in any way assisting the Person in connection with the preparation or submission of the objection or who may profit from the pursuit of the objection. If you wish to appear and be heard at the hearing on the fairness of the Settlement, you or your attorney must say so in your written objection.

In addition to filing your objection with the Court, you must send copies of your objection and any supporting documents to both Class Counsel and Joya's lawyers at the addresses listed below:

Class Counsel	Joya's Counsel
Eve-Lynn Rapp EDELSON PC 123 Townsend Street, Suite 100 San Francisco, California 94107	Jeffrey S. Jacobson Kelley Drye & Warren LLP 101 Park Avenue New York, New York 10178

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Class Counsel will file with the Court and post on the Settlement website its request for attorneys' fees and incentive award on [date 2 weeks before objection deadline].

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 FAIRNESS HEARING

20. When and where will the Court hold a hearing on the fairness of the Settlement?

The Court will hold the final fairness hearing at [time] on [date], before the Honorable Michael T. Mullen at the Richard J. Daley Center, 50 West Washington St., Chicago, IL 60602 in Courtroom 2510. The purpose of the hearing is for the Court to determine whether the Settlement is fair, reasonable, and adequate, and in the best interests of the Class. At the hearing, the Court will hear any objections and arguments concerning the fairness of the proposed Settlement, including those related to the amount requested by Class Counsel for attorneys' fees and expenses and the incentive award to the Class Representative.

Note: The date and time of the fairness hearing are subject to change by Court Order. Any changes will be posted at the Settlement Website, www.JoyaTCPASettlement.com

21. Do I have to come to the hearing?

Class Counsel will answer any questions the Court may have. But you are welcome to come to the hearing on your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as your written objection was filed or mailed on time and meets the other criteria described in the Settlement, the Court will consider it. You may also pay a lawyer to attend, but you don't have to.

22. May I speak at the hearing?

Yes. If you do not exclude yourself from the Settlement Class, you may ask the Court for permission to speak at the hearing concerning any part of the proposed Settlement. If you filed an objection (*see* Question 18 above) and intend to appear at the hearing, you must state your intention to do so in your objection.

GETTING MORE INFORMATION

23. Where can I get additional information?

This notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Settlement Agreement available at www.JoyaTCPASettlement.com, contact Class Counsel at 1-866-354-3015, or visit the office of the Clerk of the Circuit Court of Cook County, Richard J. Daley Center, Room 1001, 50 West Washington Street, Chicago, IL 60602 between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding Court holidays.

**PLEASE DO NOT CONTACT THE COURT, THE JUDGE, OR JOYA
WITH QUESTIONS ABOUT THE SETTLEMENT OR CLAIMS PROCESS.**

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EXHIBIT G

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

MATTIE CROSSLEY and SHERYL
SEYMOUR, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

JOYA COMMUNICATIONS, INC., a
Delaware corporation,

Defendant.

Case No. 16 CH 14771

[PROPOSED] PRELIMINARY APPROVAL ORDER

This matter having come before the Court on Plaintiffs' Motion for and Memorandum in Support of Preliminary Approval of Class Action Settlement of the above-captioned matter (the "Action") between Plaintiffs Mattie Crossley and Sheryl Seymour ("Plaintiffs") and Defendant Joya Communications, Inc. ("Joya" or "Defendant"), as set forth in the Stipulation of Class Action Settlement between Plaintiffs and Defendant (the "Settlement" or "Settlement Agreement"), and the Court having duly considered the papers and arguments of counsel, the Court hereby finds and orders as follows:

1. Unless defined herein, all capitalized terms in this Order shall have the respective meanings ascribed to the same terms in the Settlement Agreement.
2. The Court has conducted a preliminary evaluation of the settlement set forth in the Settlement Agreement. Based on this preliminary evaluation, the Court finds that the Settlement Agreement meets all applicable requirements of Section 2-801 of the Illinois Code of Civil Procedure for settlement purposes only, including that the Settlement Class is sufficiently numerous, that there are questions of law and fact common to members of the Settlement Class

that predominate, that the representative parties fairly and adequately protect the interests of the class, and that class treatment is an appropriate method for the fair and efficient adjudication of the controversy.

3. The Court further finds that: (i) there is good cause to believe that the Settlement is fair, reasonable, and adequate, (ii) the Settlement Agreement has been negotiated at arm's length between experienced attorneys familiar with the legal and factual issues of this case and was reached with the assistance of former federal magistrate judge of the Northern District of Illinois, the Honorable Morton Denlow (ret.) of JAMS, and (iii) the settlement warrants Notice of its material terms to the Settlement Class for their consideration and reaction. Therefore, the Court grants preliminary approval of the Settlement.

4. Pursuant to Section 2-801 of the Illinois Code of Civil Procedure, and for settlement purposes only, the Court certifies the following Settlement Class, consisting of: "all Persons in the United States that received a Promotional Text Message related to Joya's Marco Polo or VideoKik applications at any time prior to the date of this Order." A "Promotional Text Message" is any text message call that contained a hyperlink to Joya's Marco Polo or VideoKik mobile app websites, including onmarcopolo.com, nowpolo.com, videokiks.com, onpolo.com, and/or polo-app.com. Excluded from the Settlement Class are: (i) the Judges presiding over the Actions and members of their families; (ii) the Defendant, its subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or its parents have a controlling interest, and their present or former officers, directors, and employees; (iii) Persons who properly execute and file a timely request for exclusion from the Settlement Class; (iv) the legal representatives, successors or assigns of any such excluded Persons; and (v) Class Counsel and/or any member of Class Counsel's firm and their family.

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5. For settlement purposes only, the Court hereby approves the appointment of Plaintiffs Mattie Crossley and Sheryl Seymour as Class Representatives.

6. For settlement purposes only, the Court hereby approves the appointment of the following attorneys as Class Counsel and finds that they are competent and capable of exercising the responsibilities of Class Counsel:

Jay Edelson
Edelson PC (Firm ID: 44146)
350 North LaSalle St, 13th Floor
Chicago, Illinois 60654

Eve-Lynn J. Rapp
Edelson PC
123 Townsend, Suite 100
San Francisco, California 94107

7. On _____, 2017, at ___:___ .m, or at such other date and time later set by Court Order, this Court will hold a Final Approval Hearing on the fairness, adequacy, and reasonableness of the Settlement Agreement, and to determine whether: (a) final approval of the Settlement Agreement should be granted and (b) Class Counsel's application for attorney's fees and costs and an incentive award to the Class Representatives should be granted. No later than _____, 2017, Plaintiffs must file their papers in support of Class Counsel's application for attorneys' fees and costs, and no later than _____, 2017, Plaintiffs must file their papers in support of final approval of the Settlement Agreement and in response to any objections.

8. Pursuant to the Settlement Agreement, Kurtzman Carson Consultants, is hereby appointed as Settlement Administrator and shall be required to perform all of the duties of the Settlement Administrator as set forth in the Settlement Agreement and this Order.

9. The Court approves the proposed plan for giving Notice to the Settlement Class,

which includes direct notice, the implementation of an online media campaign, and the creation of the Settlement Website, as fully described in the Settlement Agreement. The Notice—both the initial notice and, if necessary, the proposed secondary notice implemented pursuant to the Settlement Agreement—in form, method, and content, fully comply with the requirements of 735 ILCS 5/2-803 and due process and are due and sufficient notice to all Persons entitled thereto. The Court hereby directs the Parties and Settlement Administrator to commence all aspects of the initial notice, according to the conditions set forth in the Settlement Agreement, no later than _____, 2017 (*i.e.*, thirty-five (35) days after the entry of this Order).

10. All persons who meet the definition of the Settlement Class and who wish to exclude themselves from the Settlement Class must submit their request for exclusion in writing no later than the Objection/Exclusion Deadline of _____, 2017 (*i.e.*, seventy (70) days after the entry of this Order), or, in the event of a secondary notice, the Second Exclusion Deadline (*i.e.*, forty-five (45) days after any additional secondary notice). To be valid, any request for exclusion must be sent to the Settlement Administrator and postmarked on or before the Objection/Exclusion Deadline or, in the event of a secondary notice, the Second Exclusion Deadline. Any request for exclusion must be in writing and personally signed by the Settlement Class Member seeking to be excluded from the Settlement Class, and include the Person's name, address, and telephone number, the caption for the Action (*i.e.*, *Crossley et al. v. Joya Communications, Inc.*, Case No. 16 CH No. 16 CH 14771 (Cir. Ct. Cook Cnty., Ill.)), and a statement that he or she wishes to be excluded from the Settlement Class. A request to be excluded that does not include all of the foregoing information, that is sent to an address other than that designated in the Notice, or that is not postmarked within the time specified, shall be invalid, and the Persons serving such a request shall be deemed to remain members of the

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Settlement Class and shall be bound as Settlement Class Members by the Settlement Agreement, if approved.

11. Any member of the Settlement Class may comment in support of, or in opposition to, the Settlement Agreement at his or her own expense; provided, however, that all comments and objections must (i) be filed with the Clerk of the Court, and (ii) be postmarked or delivered to Class Counsel and Defendant's Counsel as described in the Notice, no later than the Objection/Exclusion Deadline. Any member of the Settlement Class who intends to object to this Settlement Agreement must include in his or her written objection: (i) the Settlement Class Member's full name and current address, (ii) the cellular telephone number the Settlement Class Member believes received the Promotional Text Message at issue, (iii) a statement that he or she believes himself or herself to be a member of the Settlement Class, (iv) the specific grounds for the objection, (v) all documents or writings that the Settlement Class Member desires the Court to consider, (vi) the name and contact information of any and all attorneys representing, advising, or in any way assisting the Person in connection with the preparation or submission of the objection or who may profit from the pursuit of the objection; and (vii) a statement indicating whether the Person intends to appear at the Final Approval Hearing (either personally or through counsel, who must file an appearance or seek *pro hac vice* admission).

12. Any Settlement Class Member who fails to timely file a written objection with the Court and notice of his or her intent to appear at the Final Approval Hearing in accordance with the terms of this Order and as detailed in the Notice, and at the same time provide copies to designated counsel for the Parties, shall not be permitted to object to this Settlement Agreement at the Final Approval Hearing, shall be foreclosed from seeking any review of this Settlement Agreement by appeal or other means, and shall be deemed to have waived his or her

objections and be forever barred from making any such objections in this case or any other action or proceeding related hereto.

13. The Settlement Agreement and the proceedings and statements made pursuant to the Settlement Agreement or papers filed relating to the Settlement Agreement and this Order, are not and shall not in any event be described as, construed as, offered or received against the Released Parties as evidence of and/or deemed to be evidence of any presumption, concession, or admission by any Released Party of the truth of any fact alleged by Plaintiffs; the validity of any claim that has been or could have been asserted in the Actions or in any litigation; the deficiency of any defense that has been or could have been asserted in the Actions or in any litigation; or any liability, negligence, fault, or wrongdoing of any of the Released Parties. Defendant has denied and continues to deny the claims asserted by Plaintiffs. Notwithstanding, nothing contained herein shall be construed to prevent a Party from offering the Settlement Agreement into evidence for the purpose of enforcing the Settlement Agreement.

14. The certification of the Settlement Class shall be binding only with respect to the settlement of the Action. In the event that the Settlement Agreement fails to become effective, is overturned on appeal, or does not become final for any reason, the Parties shall be restored to their respective positions in the Action as of the date of the signing of the Settlement Agreement, and no reference to the Settlement Class, the Settlement Agreement, or any documents, communications, or negotiations related in any way thereto shall be made for any purpose.

IT IS SO ORDERED this _____ day of _____, 2017.

HONORABLE MICHAEL TULLY MULLEN

EXHIBIT H

From: Settlement Administrator
To: «First1» «Last1»
Subject: Notice of Class Action Settlement

NOTICE OF CLASS ACTION SETTLEMENT

Crossley et al. v. Joya Communications, Inc., Case No. 16-CH-14771 (Cir. Ct. Cook Cnty.)

**IF YOU RECEIVED A TEXT MESSAGE PROMOTING
THE MOBILE APPS “MARCO POLO” OR “VIDEOKIK,”
A CLASS ACTION SETTLEMENT MAY AFFECT YOUR RIGHTS.**

For complete information, visit www.JoyaTCPASettlement.com or call [toll-free number].

A 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 Joya Communications, Inc., the creator of the “Marco Polo” and “VideoKik” mobile apps. The suit concerns whether Joya violated a federal law called the Telephone Consumer Protection Act (“TCPA”) by allegedly sending unsolicited text messages to promote its mobile apps. Joya denies any wrongdoing and maintains that the text messages do not violate the TCPA. The Settlement does not establish who is correct, but rather is a compromise to end the lawsuit.

- **Why Am I Being Contacted?** Our records show you may be a “Settlement Class Member.” You may have previously received notice of this Settlement in [month, year.] Settlement Class Members are all Persons who live in the United States and received a text message from Joya regarding the mobile apps “Marco Polo” or “VideoKik.” These text messages would have contained a link to one of these websites: onmarcopolo.com, nowpolo.com, videokiks.com, onpolo.com, or polo-app.com

What Can I Get Out of the Settlement? This notice is being sent now because you may be entitled to payment under the Settlement if you file a Claim Form stating that you received such text messages from Joya. Under the Settlement, at a specified time, Joya was required to create a Settlement Fund containing either (1) \$3.75 million, or (2) 12% of the sale price if Joya or its assets are sold, up to \$3.75 million. Joya has now established the Settlement Fund in the amount of \$xx and Class Members who submit valid claims will receive cash payments from this Settlement Fund after payment of fees and expenses. Joya also agreed to ensure that any text messages it sends comply with the law and to maintain records of its compliance for four years.

- **How Do I Get My Payment?** If you want to get payment, you must fill out and submit a valid Claim Form. An online Claim Form is available here [add link] and posted on the Settlement Website. The Claim Form can be filled out and submitted online. ***All Claim Forms must be received by [date].*** Visit www.JoyaTCPASettlement.com to find out more information about the timing for payment of claims.
- **What Are My Options?** You can do nothing, submit a Claim Form, or exclude yourself from the Settlement. If you do nothing or submit a Claim Form, you won’t be able to sue Joya in a future lawsuit about the claims addressed in the Settlement. If you exclude yourself, you won’t get a payment but you’ll guarantee that you keep your right to sue Joya on the issues the Settlement concerns. You must contact the Settlement Administrator by mail to exclude yourself. ***All Requests for Exclusion must be received by [Second Exclusion Deadline].*** If you previously requested to be excluded, you don’t need to ask again. You cannot object to the Settlement because the deadline to do so has passed.
- **Do I Have a Lawyer?** Yes. The Court has appointed lawyers from Edelson PC as “Class Counsel.” They represent you and other Settlement Class members, but you do not have to pay them as they will be paid from the Settlement Fund. You can hire your own lawyer, but you’ll need to pay your own legal fees.
- **When Will the Court Approve the Settlement?** The Court approved the Settlement on [date]. The Order finally approving the Settlement is on the Settlement Website and can be found here [link]. The Court previously determined the proper amount of attorneys’ fees and expenses at the Final Fairness Hearing and awarded Class attorneys’ fees in the amount of xx% of the Settlement Fund and expenses in the amount of \$x,xxx.xx. The Court also appointed Mattie Crossley and Sheryl Seymour—Class Members like you—to represent the Class. Those individuals were awarded an incentive award of \$x,xxx.xx each for serving as Class Representatives.

Visit www.JoyaTCPASettlement.com for complete information.

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EXHIBIT I

NOTICE

received a text
promoting
mobile apps
"Polo" or
"ik," a class
action may
affect your
rights.

Original notice.
Not certified.
Class Action
affecting you.

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JYC-CA-1471
PAJ 88074

Class Action Administrator

P.O. Box xxxx
City, ST xxxxx-xxxx

«Barcode»

Postal Service: Please do not mark barcode

Claim#: JYC-«ClaimID»-«MailRec»

«First1» «Last1»

«CO»

«Addr2»

«Addr1»

«City», «St» «Zip»

«Country»

A Settlement has been reached in a class action lawsuit against Joya Communications, Inc., the creator of the “Marco Polo” and “VideoKik” mobile apps. The suit concerns whether Joya violated a federal law called the Telephone Consumer Protection Act (“TCPA”) by allegedly sending unsolicited text messages to promote its mobile apps. Joya denies any wrongdoing and maintains that the text messages do not violate the TCPA. The Settlement does not establish who is correct, but rather is a compromise to end the lawsuit.

Why am I Being Contacted? Our records show you may be a “Settlement Class Member.” You may have received a postcard about the Settlement in [month, year], Settlement Class Members are all Persons who live in the United States and received a text message from Joya regarding the mobile apps “Marco Polo” or “VideoKik.” These text messages would have contained a link to one of these websites: onmarcopolo.com, nowpolo.com, videokiks.com, onpolo.com, or polo-app.com

What Can I Get Out of the Settlement? You may be entitled to payment under the Settlement if you file a Claim Form stating that you received such text messages from Joya. Under the Settlement, at a specified time, Joya was required to create a Settlement Fund containing either (1) \$3.75 million, or (2) 12% of the sale price if Joya or its assets are sold, up to \$3.75 million. Joya has now established the Settlement Fund in the amount of \$xx and Class Members who submit valid claims will receive cash payments from this Settlement Fund after a payment of fees and expenses. Joya also agreed to ensure that any text messages it sends comply with the law and to maintain records of its compliance for four years.

How Do I Get My Payment? If you want to get payment from the Settlement Fund, you must fill out and submit a valid Claim Form and receive this postcard or submit one at www.JoyaICPASettlement.com. You can also get a paper claim form by calling [toll-free number].

What are My Options? You can do nothing, submit a Claim Form, or exclude yourself from the Settlement. If you do nothing or submit a Claim Form, you won’t be able to sue Joya in a future lawsuit about the claims addressed in the Settlement. If you exclude yourself, you won’t get a payment but you’ll guarantee that you keep your right to sue Joya on the issues the Settlement concerns. You must contact the Settlement Administrator by mail to exclude yourself. **All Requests for Exclusion must be received by [Second Exclusion deadline].** If you previously requested to be excluded, you don’t need to ask again. The deadline to object to the Settlement has passed.

Do I Have a Lawyer? Yes. The Court has appointed lawyers from Edelson PC as “Class Counsel.” They represent you and other Settlement Class members, but you do not have to pay them as they will be paid from the Settlement Fund. You can hire your own lawyer, but you’ll need to pay your own legal fees.

When Will the Court Approve the Settlement? The Court approved the Settlement on [date]. The Order finally approving the Settlement is on the Settlement Website. The Court previously determined the proper amount of attorneys’ fees and expenses at the Final Fairness Hearing and awarded Class attorneys’ fees in the amount of xx% of the Settlement Fund and expenses in the amount of \$x,xxx.xx. The Court also appointed Mattie Crossley and Sheryl Seymour—Class Members like you—to represent the Class. Those individuals were awarded an incentive award of \$x,xxx.xx each for serving as Class Representatives.

EXHIBIT J

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Crossley et al. v. Joya Communications, Inc., Case No. 16-CH-14771 (Cir. Ct. Cook Cnty.)

If you received a text message promoting the mobile apps “Marco Polo” or “VideoKik,” a class action settlement may affect your rights.

A Court authorized this notice. You are not being sued. This is not a solicitation from a lawyer. You may previously have received an earlier version of this notice on [month/date]. The Settlement Fund now has been established in the amount of [\$ _____] and you may now file a claim for cash benefits under the Settlement.

- A Settlement has been reached in a class action lawsuit against Joya Communications, Inc., creator of the “Marco Polo” and “VideoKik” mobile apps. The suit concerns whether Joya violated a federal law called the Telephone Consumer Protection Act (“TCPA”) by allegedly sending unsolicited text messages to promote its mobile apps. Joya denies any wrongdoing and maintains that the text messages do not violate the TCPA. The Settlement does not establish who is correct, but rather is a compromise to end the lawsuit.
- You are a member of the “Settlement Class” if you live in the United States and received a text message from Joya regarding the mobile apps “Marco Polo” or “VideoKik.” These text messages would have contained a link to one of these websites: onmarcopolo.com, nowpolo.com, videokiks.com, onpolo.com, or polo-app.com.

You may be entitled to payment under the Settlement if you file a Claim Form stating that you received text messages from Joya. On [date] the Court finally approved the Settlement. The Settlement documents explained that because Joya was a start-up, it did not have enough money to pay for the Settlement at the time the Settlement was approved, but that Joya would be required to establish a Settlement Fund if it was sold or started making money. Specifically, under the Settlement, within four years Joya was required to create a Settlement Fund containing either (1) \$3.75 million, or (2) 12% of the sale price if Joya or its assets are sold, up to \$3.75 million. Joya has now established the Settlement Fund in the amount of \$xx and Class Members who submit valid claims will receive cash payments from the Settlement Fund after payment of fees and expenses. Under the Settlement, Joya also agreed to ensure that any text messages it sends comply with the law and maintain document of such compliance for four years.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

SUBMIT A CLAIM FORM	This is the only way to receive a payment.
EXCLUDE YOURSELF	You will receive no payment, but you will retain any rights you currently have to sue Joya about the issues in this case.
DO NOTHING	You will receive no payment under the Settlement and give up your rights to sue the Joya about the issues in this case if the Settlement Fund is created.

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

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BASIC INFORMATION

1. What is this notice and why should I read it?

A Court authorized this notice to let you know about the Settlement with Joya. You have legal rights and options that you may act on. You may be eligible to receive a cash payment as part of the Settlement. This notice explains the lawsuit, the Settlement, and your legal rights.

Judge Michael T. Mullen of the Circuit Court of Cook County, Illinois is overseeing this class action. The case is called *Crossley et al. v. Joya Communications, Inc.*, Case No. 16-CH-14771. Mattie Crossley and Sheryl Seymour are the Plaintiffs. The company they sued, Joya, is the Defendant. You do not need to live in Illinois to get a payment under this Settlement.

2. What is a class action lawsuit?

A class action is a lawsuit in which one or more plaintiffs—in this case, Mattie Crossley and Sheryl Seymour—sue on behalf of a group of people who have similar claims. Together, this group is called a “Class” and consists of “Class Members.” In a class action, the court resolves the issues for all class members, except those who exclude themselves from the class. After the Parties reached an agreement to settle this case, the Court granted preliminary approval of the Settlement and recognized it as a case that should be treated as a class action for settlement purposes. Class Counsel then provided notice of the Settlement and the Court finally approved the Settlement on [date].

THE CLAIMS IN THE LAWSUIT AND THE SETTLEMENT

3. What is this lawsuit about?

The lawsuit alleges that Joya violated the TCPA by sending unsolicited text messages to promote its mobile apps “Marco Polo” and “VideoKik.”

Joya denies the allegations that the text messages violated the law. The Court never decided who was right. Instead, Plaintiffs and Joya entered into the Settlement to avoid time-consuming and expensive litigation. The Settlement is not an admission of wrongdoing by Joya. More information about the complaint in the lawsuit and Joya’s answers can be found in the “Court Documents” section of the settlement website at www.JoyaTCPASettlement.com.

4. Why is there a Settlement?

The Court never decided whether the Plaintiffs or the Defendant should win this case. Instead, Plaintiffs and Joya agreed to a Settlement. That way, they can avoid the uncertainty and expense of ongoing litigation, and Class Members could potentially get compensation. The Class Representatives and their attorneys (“Class Counsel”) believed that the Settlement is in the best interests of the Class Members.

WHO’S INCLUDED IN THE SETTLEMENT?

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

The Court decided that this Settlement Class includes all Persons in the United States that received a Promotional Text Message relating to Joya’s Marco Polo or VideoKik applications. If you meet the above definition, you are a Class Member.

6. What were the allegedly unconsented text messages about?

The text messages covered by this Settlement promoted Joya’s mobile apps “Marco Polo” and “VideoKik.” The text messages would have included an individual’s name, and a link to one of the following websites: onmarcopolo.com, nowpolo.com, videokiks.com, onpolo.com, and/or polo-app.com.

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THE SETTLEMENT BENEFITS

7. What does the Settlement provide?

Cash Payments to Class Members: Under the Settlement, Joya agreed to create a Settlement Fund containing either (1) \$3.75 million, or (2) 12% of the sale price if Joya or its assets are sold, up to \$3.75 million. Joya has now established the Settlement Fund in the amount of \$xx and Class Members who submit valid claims will receive cash payments from this Settlement Fund after payment of all Settlement Administration Expenses, the Incentive Awards to the Class Representatives, and any Fee Award.

All un-cashed checks issued to Class Members, and if the amount of each Class Member's claim is less than \$3, will be distributed to an agreed organization or organizations pursuant to 735 ILCS 5/2-807(b).

Change in Practices: Joya also agreed that if it permits users of its mobile apps to invite others by text message to download and use its apps, its text messaging program will comply with the law and that it will maintain documents evidencing such compliance.

HOW TO GET BENEFITS

8. How do I make a claim?

If you want to get payment, you must fill out and submit a valid Claim Form. If you received notice through a postcard in the mail, there is a Claim Form attached that you can mail in. If you received notice through email, there is a link to the Claim Form in that email, which will direct you to submit a claim online. All other Settlement Class Members must submit a Claim Form online by clicking [here](#) or requesting a paper Claim Form from the Settlement Administrator by calling [toll-free number]. We encourage you to submit a claim online. It's faster and it's free.

The Claim Form requires you to provide the following information: (1) name, (2) current U.S. mail and email address, (3) telephone number that received the text messages, and (4) affirmation that you received a text message from Joya regarding the mobile apps "Marco Polo" or "VideoKik."

9. When will I get my payment?

Class Members will have 180 days to file claims after the Settlement Fund is created. Class Members whose claims were approved by the Settlement Administrator will be sent a check. Claims will be paid within 60 days of the claims deadline. Please be patient. All checks will expire and become void 90 days after they are issued.

THE LAWYERS REPRESENTING YOU

10. Do I have a lawyer in this case?

Yes, the Court has appointed lawyers Jay Edelson and Eve-Lynn J. Rapp of Edelson PC as the attorneys to represent you and other Class Members. These attorneys are called "Class Counsel." In addition, the Court appointed Plaintiffs Mattie Crossley and Sheryl Seymour to serve as the Class Representatives. Each is a Class Member like you. Class Counsel can be reached by calling 1-866-354-3015.

11. Should I get my own lawyer?

You don't need to hire your own lawyer because Class Counsel is working on your behalf. But if you want your own lawyer, you will have to pay that lawyer.

12. How will the lawyers be paid?

Under the Settlement, Class Counsel only got paid if Class Members received payment from the creation of the Settlement Fund. The Court determined the proper amount of attorneys' fees and expenses at the Final Fairness Hearing and awarded Class attorneys' fees in the amount of xx% of the Settlement Fund and expenses in the amount of \$x,xxx.xx. The Court also awarded Plaintiffs Crossley and Seymour an incentive award of \$x,xxx.xx each, for their work as Class Representatives, to be paid from the Settlement Fund.

YOUR RIGHTS AND OPTIONS

13. What happens if I do nothing at all?

If you do nothing, you will receive no payment under the Settlement and you will also remain bound by all orders and judgments of the Court. Unless you exclude yourself, you won't be able to start a lawsuit or be part of any other lawsuit against the Joya for the claims or legal issues being resolved by this Settlement.

14. What happens if I ask to be excluded?

If you exclude yourself from the Settlement, you will receive no payment under the Settlement. However, you will not be in the Class. You will keep your right to start your own lawsuit against Joya for the same legal claims made in this lawsuit. You will not be legally bound by the Court's judgments related to the Class and Joya in this class action.

15. How do I ask to be excluded?

You can ask to be excluded from the Settlement. To do so, you must send a letter stating that you want to be excluded from the Settlement in *Crossley et al. v. Joya Communications, Inc.*, Case No. 16-CH-14771. Your letter must also include your (1) name, address, and telephone number (2) a statement that you wish to be excluded from the Class, (3) the caption for this case, and (4) your signature. You must mail your exclusion request no later than **[Second Exclusion deadline]** to:

Crossley et al. v. Joya Communications, Inc. Settlement Administrator
P.O. Box 0000, City, ST 00000-0000

You can't exclude yourself on the phone or by email. If you previously requested to be excluded, you don't need to ask again.

16. If I don't exclude myself, can I sue the Defendant for the same thing later?

No. Unless you exclude yourself, you give up any right to sue Joya for the claims being resolved by this Settlement.

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

If you exclude yourself now or excluded yourself before, you cannot submit a Claim Form to ask for a payment.

18. How do I object to the Settlement?

The deadline to object has passed. The Court preliminarily approved the Settlement on [date], after which time notice of the Settlement was issued. The notice informed Class Members that the deadline to object to the Settlement was [date]. As such, you can no longer object to the Settlement at this time.

THE COURT'S FAIRNESS HEARING

19. Will the Court hold a hearing on the fairness of the Settlement?

The hearing has already happened. The Court held a final fairness hearing on [date], before the Honorable Michael T. Mullen at the Richard J. Daley Center, 50 West Washington St., Chicago, IL 60602 in Courtroom 2510. At that time, the Court determined that the Settlement was fair, reasonable, and adequate, and in the best interests of the Class. At the hearing, the Court also heard any objections and arguments concerning the fairness of the proposed Settlement, including those related to the amount requested by Class Counsel for attorneys' fees and expenses and the incentive award to the Class Representative. The Court approved the Settlement on [date]. The Order finally approving the Settlement is on the Settlement Website and can be found [here](#) [link].

GETTING MORE INFORMATION

20. Where can I get additional information?

This notice summarizes the Settlement. For the precise terms and conditions of the Settlement, please see the Settlement Agreement available at www.JoyaTCPASettlement.com, contact Class Counsel at 1-866-354-3015, or visit the office of the Clerk of the Circuit Court of Cook County, Richard J. Daley Center, Room 1001, 50 West Washington Street, Chicago, IL 60602 between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding Court holidays.

**PLEASE DO NOT CONTACT THE COURT, THE JUDGE, OR JOYA
WITH QUESTIONS ABOUT THE SETTLEMENT OR CLAIMS PROCESS.**

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