

This is a notice of a lawsuit settlement, not a lawsuit against you.

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

JWD AUTOMOTIVE, INC. d/b/a NAPA AUTO CARE OF
CAPE CORAL, a Florida corporation, individually and as
the representative of a class of similarly-situated
persons,

Plaintiff,

v.

DJM ADVISORY GROUP LLC, BANNER LIFE
INSURANCE COMPANY, WILLIAM PENN LIFE
INSURANCE COMPANY OF NEW YORK,

Defendants.

Civil Action No.: 2:15-cv-00793

CLASS ACTION

NOTICE OF CLASS ACTION SETTLEMENT WITH ATTACHED CLAIM FORM

TO: All persons who were sent one or more facsimiles December 21, 2011 to present which provided: ALL TERM INSURANCE.COM *Protect* your most valuable asset – Your Income with **AFFORDABLE TERM LIFE INSURANCE** *Are you paying too much?..* Legal & General America Life Insurance products are underwritten and issued by Banner Life Insurance Company, Urbana, MD and William Penn Life Insurance Company of New York, Garden City, NY...and contained reference to DJM Advisory Group, LLC on the fax quoting Term Life Insurance rates (the "Settlement Class").

- A. WHY HAVE YOU RECEIVED THIS NOTICE?** The Court ordered us to send you this Notice because your fax number is contained on a list of fax numbers to which advertisements were sent by fax and you appear to be a member of the Settlement Class defined above.
- B. WHAT IS THIS LAWSUIT ABOUT?** Plaintiff JWD Automotive, Inc. ("JWD Automotive") filed this class action lawsuit against DJM Advisory Group LLC, Banner Life Insurance Company and William Penn Life Insurance Company of New York ("Defendants") alleging that they violated the federal Telephone Consumer Protection Act ("TCPA"). Defendants denied Plaintiff's allegations and raised defenses. The parties have agreed to settle all claims about the advertising fax Defendants sent December 21, 2011 to present.
- C. WHAT IS THE PROPOSED SETTLEMENT?** Without admitting any fault or liability, and in exchange for a release of all claims against it, if the Settlement is finally approved, Defendants have agreed to make up to \$3,500,000.00 (the "Settlement Fund") available to pay those class members who submit a valid claim form, to pay an incentive award to Plaintiff for serving as the class representative, and to pay attorney's fees and expenses to Plaintiff's attorneys. The claim form is attached. If the Court approves the settlement, all of the Class members who submit a valid and timely Proof of Claim Form (attached) will be mailed a check for their pro rata share of the Settlement Fund less attorney's fees, expenses, and incentive payment. Class members who received more than one fax may submit copies of those faxes with the Proof of Claim Form and be paid \$500 per valid fax submitted. Class members who received only one fax and class members who received multiple faxes but who do not provide copies will be paid \$500 for submission of a valid and timely Proof of Claim Form. The payment may be reduced pro rata if the value of claims received exceeds the value of the Settlement Fund. The Court has preliminarily approved this settlement, subject to a fairness hearing that will occur on December 4, 2017, at 9:30 a.m., in Room 6A, United States District Court for the Middle District of Florida, Fort Myers Division, 2110 First Street, Fort Myers, Florida 33901.
- D. WHAT ARE YOUR OPTIONS?**
- Return a completed Claim Form:** To receive a share of the settlement funds, you must complete, sign, and return a signed Claim Form postmarked, if sent by mail, or submitted by fax or electronically and received on or before October 21, 2017. The Claim Form is attached to this Notice. If your Claim Form is timely and valid, you will be mailed a check for your share of the proceeds. If you have retained copies of any faxes you believe to be advertisements sent by or on behalf of the Defendants, you should attach copies of all faxes you successfully received to this form. If you do not attach any faxes, your recovery under the Settlement will be limited to \$500 per fax number, which may be reduced pro rata if the Settlement Fund is exhausted.
 - Do nothing:** If you do nothing, you will remain in the Class. You will be bound by the judgment against Defendants and you will release your claims against Defendants about Defendants' advertising faxes, but you will receive nothing.

3. **Opt out of the settlement:** You are not required to participate in the settlement. You have the right to exclude yourself from the Class and the settlement by sending a written request for exclusion. But your completed, signed statement advising of your election to opt out must be postmarked no later than September 29, 2017. If your request is not postmarked by that date, your right to opt out will be deemed waived and you will be bound by all orders and judgments entered in connection with the settlement. Your request must provide your full name, address, and telephone number(s). Further, the written request for exclusion must include a statement that you wish to be excluded from the Settlement (for example, "Exclude me from the JWD Automotive v. DJM Advisory settlement"), and either the personal signature of the member of the Settlement Class submitting the request or the signature of that member's duly-authorized attorney. Any member of the Settlement Class who elects to be excluded shall not: (i) be bound by the Final Approval Order and Judgment; (ii) be entitled to relief under this Settlement Agreement; (iii) gain any rights by virtue of this Agreement; or (iv) be entitled to object to any aspect of this Agreement. You must send your request to each of the following attorneys, and they will inform the Court of your request.

<u>Class Counsel:</u>	<u>Insurer Defendants' Attorney:</u>	<u>DJM Advisory Group's Attorney</u>
Ryan M. Kelly Anderson + Wanca 3701 Algonquin Road, Ste 500 Rolling Meadows, IL 60008	Lewis S. Wiener Eversheds Sutherland (US) LLP 700 6th Street, N.W., Suite 700 Washington, DC 20001	Nicole L. Milone Certilman Balin Adler & Hyman LLP 90 Merrick Avenue, 9th Floor East Meadow, NY 11554

4. **Object to the settlement:** If you object to the settlement, and wish to file an objection rather than simply exclude yourself, you must send a written objection to the Clerk of the United States District Court for the Middle District of Florida, 2110 First Street, Fort Myers, Florida 33901. Your objection must be postmarked by September 29, 2017, and must refer to the name and number of this case. Your statement must include your full name, address, telephone number or numbers that you maintain were called or received an applicable fax; all grounds in detail for the objection, with factual and legal support for each stated ground; the identity of any witnesses you may call to testify; copies of any exhibits that you intend to introduce into evidence at the Final Approval Hearing; a statement of the identity (including name, address, phone number and email) of any lawyer who was consulted or assisted with respect to your objection, and a statement of whether you intend to appear at the Final Approval Hearing with or without counsel. You must also serve copies of your objection on Class Counsel, Counsel for Insurer Defendants, and Counsel for DJM Advisory Group (at the addresses above), postmarked by the same date. Additionally, if you want the Court to consider your objection, then you must also appear at the final approval hearing in Room 6A, United States District Court for the Middle District of Florida, Fort Myers Division, 2110 First Street, Fort Myers, Florida 33901 on December 4, 2017, at 9:30 a.m. You are not required to attend this hearing unless you object to the settlement.

- E. **WHEN WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?** The Court will hold a final fairness hearing on December 4, 2017, at 9:30 a.m., in Room 6A, United States District Court for the Middle District of Florida, Fort Myers Division, 2110 First Street, Fort Myers, Florida 33901, and hear any timely and properly-filed objections and arguments about the settlement. You are **not** required to attend this hearing unless you object to the settlement. The fairness hearing may be continued to a future date without further notice.
- F. **WHO REPRESENTS THE CLASS?** JWD Automotive, Inc. is the Class Representative. Its attorneys are Class Counsel. They are:

Ryan M. Kelly
Anderson + Wanca
3701 Algonquin Road, Ste. 500
Rolling Meadows, IL 60008

As part of the settlement, Defendants have agreed to pay Plaintiff an incentive award of \$15,000.00 for its service on behalf of the Class in this litigation. Defendants have also agreed to pay attorneys' fees to Class Counsel of 33 1/3% of the Settlement Fund (\$1,166,66.66), plus reasonable out-of-pocket expenses incurred in the litigation, plus the cost of settlement administration, to be paid from the Settlement Fund.

- G. **WHERE CAN YOU GET MORE INFORMATION?** If you have questions about this Notice or about the settlement, write to attorney Ryan M. Kelly at the address listed above. Include the case number, your name, your fax number, and your current street address on any correspondence. Alternatively, you can call Mr. Kelly's office at 1-855-827-2329. This Notice only summarizes the litigation and the settlement. The court files for this case are available for your inspection at the Clerk of the United States District Court for the Middle District of Florida, Fort Myers Division, 2110 First Street, Fort Myers, Florida 33901.

DO NOT CONTACT THE JUDGE, THE JUDGE'S STAFF, OR THE CLERK OF THE COURT BECAUSE THEY ARE NOT PERMITTED TO ANSWER YOUR QUESTIONS ABOUT THIS SETTLEMENT.

PROOF OF CLAIM



12758275

**JWD Automotive, Inc. v. DJM Advisory Group, LLC, Banner Life Insurance Company
and William Penn Life Insurance Company of New York, Case No. 2:15-cv-00793**

Fax Number: 772-770-5334

You Must Complete This Form to Claim a Share of the Settlement Fund:

1. You Must Provide Your Contact Information.

Name: _____

Company: _____

Address: _____

City/State/Zip Code: _____

Phone: _____ Email: _____

Fax Number(s): _____

[List all numbers from December 21, 2011 to present. You may attach a separate sheet.]

2. You Must Verify Ownership of the Fax Number(s) Listed in #1 above:

(a) "The fax number(s) identified above or attached to this Proof of Claim was/were:

- 1. Capable of receiving faxes, and
- 2. Mine or my company's at some point from December 21, 2011 through the present."

X _____
(Sign your name here)

OR

(b) "The fax number(s) identified in No. 1 above or attached to this Proof of Claim was not/were not:

- 1. Capable of receiving faxes from December 21, 2011 through the present, and/or
- 2. Mine or my company's at some point from December 21, 2011 through the present". Explain when you obtained the fax number(s) identified in No. 1 above or attached to this Proof of Claim:

X _____
(Sign your name here)

3. You Must Return this Claim Form by October 21, 2017:

a. Fax this Claim Form to: 877-704-7733

OR

b. Mail this Claim Form to: JWD v. DJM
Class-Settlement.com
PO Box 9009
Hicksville, NY 11802-9009

OR

c. Submit this claim form electronically at: www.class-settlement.com

Username: 12758275 Password: copflyant

4. Attach Copies of Facsimiles (Optional):

If you have retained copies of any faxes you believe to be advertisements sent by or on behalf of the Defendants, you should attach copies of all faxes received to this form. If you do not attach any faxes, your recovery under the Settlement will be limited to \$500 per fax number, which may be reduced *pro rata* if the Settlement Fund is exhausted.