

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT**

LONNIE R. BERRYMAN, JR.,

Plaintiff,

v.

AVANTUS, LLC

Defendant.

Civil Action No. 3:21-cv-01651

**DECLARATION OF FRANK BARKAN  
IN CONNECTION WITH NOTICE DISSEMINATION**

Frank Barkan, pursuant to 28 U. S. C. § 1746, hereby declares and states as follows:

1. I am member of Continental DataLogix LLC (“Continental”), which was appointed to aid in giving notice to potential Class Members and I was responsible for overseeing the dissemination of notices to members of the Class.

2. Pursuant to the Order Preliminarily Approving Settlement, Certifying Conditional Settlement Class, Appointing Class Counsel, Approving and Directing Notice Plan, Appointing Settlement Administrator, & Setting Fairness Hearing dated January 17, 2024, Continental was appointed as the Settlement Administrator in this case.

3. Continental was provided with a mailing list containing names and mailing addresses for 1,393 Class Members. After the removal of 16 records that were identified as duplicates, a mailing list of 1,377 Class Members remained, identified as follows:

- a. Automatic Payment Category – Avantus, LLC (“Avantus”) identified 719 Class Members as meeting the criteria pursuant to Section 4.3.2 of the Settlement Agreement & Release.
- b. Claim Filing Category – Avantus identified 658 Class Members as meeting the criteria pursuant to Section 4.3.3 of the Settlement Agreement & Release.

4. Pursuant to Section 4.2.3 of the Settlement Agreement and Release, members of the Automatic Payment Category were to receive one Notice (“Automatic Payment Notice”) and members of the Claim Filing Category were to receive another Notice along with a claim form (“Claim Filing Notice”). Notices were to be sent via U.S. Mail after the addresses were updated through National Change of Address Database. In addition, Notices were to be sent via electronic mail (where available).

5. In preparation for the notice mailing, Continental processed the mailing addresses through the search firm LexisNexis to locate email addresses and also to update mailing addresses. This process resulted in locating 614 email addresses and updating 876 mailing addresses. In addition, the addresses were also run through the United States Postal Service’s (“USPS”) National Change of Address (“NCOA”) database. The NCOA process provided updated addresses for Class Members who have submitted a change of address with the USPS in the last 48 months, and the process also standardized the addresses for mailing. Continental then prepared a mail file of Class Members that were to receive the notices via First Class Mail.

#### **Mailing of the Notice**

6. Continental coordinated the mailing of the Automatic Payment Notice (“Exhibit A”) on February 7, 2024 to 719 Class Members who were previously identified as being members of the Automatic Payment Category and the Claim Filing Notice (“Exhibit B”) to 658 Class Members who were previously identified as being members of the Claim Filing Category.

#### **Emailing of the Notice**

7. Of the 1,377 names that appeared on the mailing list, valid email addresses were located for 614 class Members. Continental arranged for the transmission of the Automatic Payment Email Notice (“Exhibit C”) to 298 Class Members and the Claim Filing Email Notice (“Exhibit D”) to 316 Class Members via email on February 7, 2024.

#### **Mailed Notice Undeliverables**

8. Pursuant to Paragraph 4.2.3 of the Settlement Agreement and Release, for up to 30 days following the mailing of the Notice, Continental was to search for new addresses and re-mail the Notice to those whose notices were returned as undeliverable. As of the close of business on March 8, 2024 (30 days

after the original mailing), Continental received 104 Notices returned by the USPS as undeliverable with no forwarding address of which have been processed and their addresses were sent to TLO, a Trans Union search service, in an attempt to locate an updated mailing address. Notices were remailed to 58 records with updated addresses. Since March 8, 2024, and through April 11, 2024, 7 remailed notices were returned as undeliverable and Continental has received an additional 12 original notices returned as undeliverable.

9. As of the close of business on April 11, 2024, Continental received 2 Notices returned by the USPS as undeliverable with a forwarding address and they were promptly re-mailed.

**Email Notice Undeliverables**

10. Continental continuously monitored the delivery status of all email Notices to identify those that were returned undeliverable. As of April 11, 2024, of the 614 emails sent, 135 were identified as undeliverable.

**Notice Summary**

11. In summary, the total number of Automatic Payment Category Class Members who are presumed to have successfully received Notice is as follows:

Total Automatic Payment Category:	719
Mailed Notice – Total:	719
Less: Undeliverable:	<u>(23)</u>
Total presumed delivered:	<u>696</u>
Emailed Notice – Total:	298
Less: Undeliverable:	<u>(59)</u>
Total presumed delivered:	<u>239</u>

Number of Automatic Payment Category Class Members who did not receive Notice: 20

12. In summary, the total number of Claim Filing Category Class Members who are presumed to have successfully received Notice is as follows:

Total Claim Payment Category:	658
Mailed Notice – Total:	658
Less: Undeliverable:	<u>(42)</u>
Total presumed delivered:	<u>616</u>
Emailed Notice – Total:	316
Less: Undeliverable:	<u>(76)</u>
Total presumed delivered:	<u>240</u>

Number of Claim Payment Category Class Members who did not receive Notice: 30

**Website**

13. An informational website (<https://www.BerrymanSettlement.com>) was created and made available on February 2, 2024. The website provides Class Members with the ability to submit a claim online and send email inquiries, and contains the following:

- Class Action Complaint
- Settlement Agreement & Release
- Motion for Preliminary Approval of Class Action Settlement
- Order Preliminarily Approving Settlement, Certifying Conditional Settlement Class, Appointing Class Counsel, Approving and Directing Notice Plan, Appointing Settlement Administrator, & Setting Fairness Hearing
- Long Form Notice (Web Only)
- Automatic Payment Group Notice (Mailed)
- Claim Form Group Notice and Claim (Mailed)
- Motion for Awards of Attorneys’ Fees and Named Plaintiff Service Awards
- Contact Information for the Settlement Administrator and Class Counsel
- Important Dates

**Toll Free Information Telephone Line**

14. Continental established and continues to maintain a toll-free telephone line where callers may speak with a live agent and obtain information about the class action. As of April 11, 2024, the telephone line has received 13 calls from Class Members.

**Claim Filing**

15. The postmark deadline for Class Members to file a Claim Form was April 8, 2024. As of April 11, 2024, Continental has received a total of 53 timely valid claim forms. Additionally, Continental has received an additional five (5) Claim Forms that fall under the following categories:

Not on class list	1
Duplicate claims	1
Deficient claims	3

16. Continental has attempted to contact the three (3) claimants whose claims are deficient in an effort to cure the deficiencies. As of April 11, 2024, these claims remain deficient.

**Exclusion Requests and Objections**

17. The postmark deadline for filing a written exclusion request or a notice of objection was April 8, 2024.

18. As of the close of business on April 11, 2024, Continental has not received any requests for exclusion or notice of objection.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 11<sup>th</sup> day of April 2024.



Frank Barkan

# EXHIBIT A

Berryman, Jr. v. Avantus, LLC  
c/o Settlement Administrator  
P.O. Box 16  
West Point, PA 19486

PRESORTED  
FIRST-CLASS MAIL  
U.S. POSTAGE PAID  
MAG

COURT  
AUTHORIZED  
NOTICE

*Lonnie R. Berryman, Jr.*

v.

*Avantus, LLC*

Case 3:21-cv-01651-VAB Document 70 Filed 04/11/24 Page 8 of 17

A settlement has been reached in a purported class action lawsuit (the “Action” against Avantus, LLC (“Defendant”) for alleged violations of the Fair Credit Reporting Act (“FCRA”). As used in this Notice, “Defendant” collectively refers to Xactus, LLC, in its capacity as successor in interest to certain assets of Avantus, LLC, and Avantus, LLC. Plaintiff claims that Defendant violated the FCRA by not following reasonable procedures to assure maximum possible accuracy by allegedly passing along information from credit bureaus that indicated a consumer was deceased when the consumer was alive. Defendant vigorously denies that it violated any law but has agreed to settle to avoid the uncertainties and expenses associated with continuing the Action. This Notice summarizes the proposed Settlement. The complete settlement terms and conditions are available in the Settlement Agreement at [www.BerrymanSettlement.com](http://www.BerrymanSettlement.com).

**Am I a Class Member?** Defendant’s records indicate you are a Class Member. The Class includes all persons residing in the United States of America (including its territories and Puerto Rico): (1) who were the subject of a bi-merge or tri-merge report using the legacy Avantus system and branding from December 13, 2019 through November 3, 2023; (2) that included at least one notation related to a deceased status in the score section of the report; and (3) where at least one of the underlying consumer reporting agencies returned a credit score.

**What Can I Get?** The Settlement establishes a \$450,758 Settlement Fund for payments to Class Members, after payment of the cost for settlement administration, and any approved Class Representative service award. The parties estimate Class Members will each receive approximately \$511.

**What Are My Other Options?** (1) Do nothing. If you do nothing in response to this Notice, you will receive a settlement payment and will lose both any legal rights you may have against Defendant related to this suit and to object to the Settlement of this suit. (2) Exclude yourself. You may exclude yourself from the Class by mailing a written notice to the Settlement Administrator postmarked by April 8, 2024, that includes a signed and dated statement that you want to be excluded from the Class in *Berryman, Jr. v. Avantus, LLC* and includes your name, address, and phone number. If you exclude yourself, you will not receive a settlement payment, but you retain any legal rights you may have against Defendant. (3) Object. If you do not exclude yourself, you and/or your lawyer have the right to appear before the Court and object to the Settlement. Your written, signed objection must be mailed to the Settlement Administrator, and postmarked no later than April 8, 2024. Specific instructions on how to object to or exclude yourself from the Settlement are available at [www.BerrymanSettlement.com](http://www.BerrymanSettlement.com).

**Who Represents Me?** The Court has appointed a team of lawyers from Berger Montague PC to serve as Class Counsel. They will petition to be paid legal fees, separate from the Settlement Fund, not to exceed \$267,242, as well as request a Class Representative service award not to exceed \$7,500 and settlement administration expenses to be paid from the Settlement Fund.

**When Will the Court Consider the Settlement?** The Court will hold a Final Approval Hearing on May 8, 2024, at 10:00 a.m. At that hearing, the Court will hear any objections concerning the fairness of the Settlement, decide whether to approve the requested attorneys’ fees and costs, Class Representative service award, and determine whether the Settlement should be approved.

**How Do I Get More Information?** For more information, including the full Notice, and Settlement Agreement, go to [www.BerrymanSettlement.com](http://www.BerrymanSettlement.com), or contact the Settlement Administrator at [questions@BerrymanSettlement.com](mailto:questions@BerrymanSettlement.com) or by calling (833) 215-9289.



# EXHIBIT B

Berryman, Jr. v. Avantus, LLC  
c/o Settlement Administrator  
P.O. Box 16  
West Point, PA 19486

PRESORTED  
FIRST-CLASS MAIL  
U.S. POSTAGE PAID  
MAG

# COURT AUTHORIZED NOTICE

*Lonnie R. Berryman, Jr.*  
v.  
*Avantus, LLC*

Claim Form Deadline  
is April 8, 2024

## UNITED STATES DISTRICT COURT, DISTRICT OF CONNECTICUT *Berryman, Jr. v. Avantus, LLC* – CLAIM FORM

Instructions:

1. Verify that your name and address information is correct. Add your telephone number and email address (if available).
2. To submit a Claim for a settlement payment, review the Statement below.
3. If the Statement below is accurate, sign and return this form to the Settlement Administrator.

Statement:

I attest that I was the subject of a consumer report sold by Defendant between December 13, 2019 through November 3, 2023, that this report indicated I was deceased, and that I am not deceased.

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Printed Name**

\_\_\_\_\_  
**Date**

**Provide Your Telephone and Email –**

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

Update name and mailing information (if different)

\_\_\_\_\_

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\_\_\_\_\_

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**What Can I Get?** The Settlement establishes a \$450,758 Settlement Fund for payments to Class Members, after payment of the cost for settlement administration, and any approved Class Representative service award. The parties estimate Class Members will each receive approximately \$511.

**What Are My Other Options?** (1) Remain in the Class. If you remain in the Class, you will be eligible to make a claim for a settlement payment and will lose both any legal rights you may have against Defendant related to this suit and to object to the Settlement of this suit. In order to receive the settlement payment, you must return a timely and valid Claim Form by April 8, 2024. (2) Exclude yourself. You may exclude yourself from the Class by mailing a written notice to the Settlement Administrator postmarked by April 8, 2024, that includes a signed and dated statement that you want to be excluded from the Class in *Berryman, Jr. v. Avantus, LLC* and includes your name, address, and phone number. If you exclude yourself, you will not receive a settlement payment, but you retain any legal rights you may have against Defendant. (3) Object. If you do not exclude yourself, you and/or your lawyer have the right to appear before the Court and object to the Settlement. Your written, signed objection must be mailed to the Settlement Administrator, and postmarked no later than April 8, 2024. Specific instructions on how to object to or exclude yourself from the Settlement are available at [www.BerrymanSettlement.com](http://www.BerrymanSettlement.com).

**Who Represents Me?** The Court has appointed a team of lawyers from Berger Montague PC to serve as Class Counsel. They will petition to be paid legal fees, separate from the Settlement Fund, not to exceed \$267,242, as well as request a Class Representative service award not to exceed \$7,500 and settlement administration expenses to be paid from the Settlement Fund.

**When Will the Court Consider the Settlement?** The Court will hold a Final Approval Hearing on May 8, 2024, at 10:00 a.m. At that hearing, the Court will hear any objections concerning the fairness of the Settlement, decide whether to approve the requested attorneys' fees and costs, Class Representative service award, and determine whether the Settlement should be approved.

**How Do I Get More Information?** For more information, including the full Notice, and Settlement Agreement, go to [www.BerrymanSettlement.com](http://www.BerrymanSettlement.com), or contact the Settlement Administrator at [questions@BerrymanSettlement.com](mailto:questions@BerrymanSettlement.com) or by calling (833) 215-9289.

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PLACE  
REQUIRED  
FIRST-CLASS  
STAMP  
HERE

BERRYMAN JR V AVANTUS LLC  
C/O SETTLEMENT ADMINISTRATOR  
PO BOX 16  
WEST POINT PA 19486-0016



# EXHIBIT C

**From:** [Berryman, Jr. v. Avantus, LLC Settlement Administrator](#)  
**To:** [Class Member](#)  
**Subject:** Important notice of your rights in a class action settlement – Berryman, Jr. v. Avantus, LLC  
**Date:** Wednesday, February 7, 2024 10:00:26 AM

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**UNITED STATES DISTRICT COURT FOR THE DISTRICT OF CONNECTICUT**

**A FEDERAL COURT AUTHORIZED THIS NOTICE**

*This is not a solicitation from a lawyer. You are not being sued.*

**Your Claim #:** **BM-ABCD4567**  
**Your First Name:** **JOAN Q**  
**Your Last Name:** **DOE**  
**Your Mailing Address:** **12345 DRAGONFLY WAY**  
**FORT WORTH, OR 76244-1234**

If the address listed above is incorrect, please update your address by replying to this email.

**Your rights and options – and the deadlines by which to exercise them – are explained in this Notice. Please read this Notice carefully in its entirety.**

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(1) Do nothing. If you do nothing in response to this Notice, you will receive a settlement payment and will lose both any legal rights you may have against Defendant related to this suit and to object to the Settlement of this suit.

(2) Exclude yourself. You may exclude yourself from the Class by mailing a written notice to the Settlement Administrator postmarked by **April 8, 2024**, that includes a signed and dated statement that you want to be excluded from the Class in *Berryman, Jr. v. Avantus, LLC* and includes your name, address, and phone number. If you exclude yourself, you will not receive a settlement payment, but you retain any legal rights you may have against Defendant.

(3) Object. If you do not exclude yourself, you and/or your lawyer have the right to appear before the Court and object to the Settlement. Your written, signed objection must be mailed to the Settlement Administrator, and postmarked no later than **April 8, 2024**. Specific instructions on how to object to or exclude yourself from the Settlement are available at [www.BerrymanSettlement.com](http://www.BerrymanSettlement.com).

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Please do not address questions about the Settlement or the litigation to the clerk of Court or to the Judge. They are not permitted to answer your questions.

Questions - call toll-free (833) 215-9289 or visit [www.BerrymanSettlement.com](http://www.BerrymanSettlement.com)

Click [here](#) to unsubscribe from future emails regarding Berryman, Jr. v. Avantus, LLC.

# EXHIBIT D

**From:** [Berryman, Jr. v. Avantus, LLC Settlement Administrator](#)  
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UNITED STATES DISTRICT COURT FOR THE DISTRICT OF CONNECTICUT

A FEDERAL COURT AUTHORIZED THIS NOTICE

*This is not a solicitation from a lawyer. You are not being sued.*

**In order to receive a payment, you must complete a Claim Form by April 8, 2024.**

**[Click here to file a claim online.](#)**

**Your Claim #:** BM-ABCD1234  
**Your First Name:** JOHN Q  
**Your Last Name:** DOE  
**Your Mailing Address:** 12345 DRAGONFLY WAY  
FORT WORTH, OR 76244-1234

If the address listed above is incorrect, you can update your address on your claim form.

**Your rights and options – and the deadlines by which to exercise them – are explained in this Notice. Please read this Notice carefully in its entirety.**

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