

**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

Class Action Settlement Notice
Authorized by the U.S. District Court

*You are not being sued.
This Notice explains the Settlement, the Settlement Class, and your
legal rights and options. Please read the entire Notice carefully.*

You should:

1. Read this Notice.
2. If you do not want to remain in the Class, submit an exclusion request by April 8, 2024.
3. If you are part of the Class that needs to submit a Claim Form and you want to receive a payment, submit a Claim Form by April 8, 2024.

Important things to know:

- If you remain in the Class, and the Court approves the Settlement, you will receive a settlement payment automatically if you are in the Automatic Payment group. If you are in the Claim Form group, and you return a timely, valid Claim Form, and the Court approves the Settlement, you will receive a settlement payment as well.
- If you take no action, you will still be bound by the Settlement and its releases.
- You can learn more at: www.BerrymanSettlement.com.

**Questions – call toll-free (833) 215-9289 or email questions@BerrymanSettlement.com
or visit www.BerrymanSettlement.com**

TABLE OF CONTENTS

About This Notice	3
Why did I get this Notice?	3
What do I do next?	3
Your legal rights & options	3
What are the most important dates?	4
Learning About the Lawsuit & Settlement	4
What is this lawsuit about?	4
What can I get out of the Settlement?	4
Who are the attorneys representing the Class and how will they be paid?	4
Deciding What You Want to Do	5
What are my options?	5
Doing Nothing	5
What are the consequences of doing nothing?	5
File a Claim	6
How do I submit a Claim?	6
Opting Out	6
What happens if I opt-out of the Class?	6
How do I opt-out?	6
Objecting to the Settlement	6
What happens if I object to the Settlement?	6
How do I object to the Settlement?	6
Additional Information	7
When and where will the Court decide whether to approve the Settlement?	7
Where can I get additional information?	7

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About This Notice

Why did I get this Notice?

You are receiving this Notice because you have been identified as a Class Member in a purported class action lawsuit entitled *Lonnie R. Berryman, Jr. v. Avantus, LLC*, 3:21-cv-01651, which claims that Avantus, LLC violated 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.

The lawsuit alleges that Defendant violated the FCRA when it included on a consumer report information from a credit bureau like Trans Union, Equifax or Experian that indicated a consumer who applied for a mortgage was deceased when the consumer was alive.

Specifically, Defendant’s records indicate that (1) you 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.

As a Class Member, you are eligible to receive a payment as part of this class action Settlement. This Notice describes your rights. Please review it carefully.

What is a class action lawsuit?

A class action is a lawsuit in which one or more people sue on behalf of a larger group, called the Class.

What do I do next?

Your Legal Rights & Options:

STAY IN THE CLASS	<p>If you do nothing, you will be bound by the Court’s decisions regarding the Settlement. You will not be able to pursue any potential claims against the Defendant that have been released as part of the Settlement. Review the full release included in the Settlement Agreement, which is posted on this website.</p> <p>Depending on which group your mailed or email Notice indicated you are in, you may need to return a Claim Form in order to receive payment:</p>	
	<p>Automatic Payment Group</p> <p>If you are in the Automatic Payment group, you do not have to do anything to receive a payment. If the Settlement is approved, you will be sent a check.</p>	<p>Claim Form Group</p> <p>If you are in the Claim Form group and are eligible to receive a payment, you must complete and return a Claim Form by April 8, 2024 in order to receive a payment.</p>
EXCLUDE YOURSELF FROM THE SETTLEMENT	<p>You can opt-out of the Settlement if you want to maintain any legal rights you may have against Defendant. But if you opt-out, you will not receive a settlement payment if the Court grants final approval.</p> <p>To opt-out from the Settlement, you must send a written request addressed to the Settlement Administrator and state that you wish to be excluded from the Settlement and include the information discussed in more detail in this Notice. The opt-out deadline is April 8, 2024.</p>	
OBJECT TO THE SETTLEMENT	<p>You have the right to write to the Court to object to the Settlement if you believe it is unfair. You would remain a part of the Class and be bound by the Court’s decisions regarding the Settlement. The objection deadline is April 8, 2024.</p>	

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Read on to understand the specifics of the Settlement and what each choice would mean for you. The Court still has to decide whether to grant final approval of the Settlement. Payments will be made if the Court approves the Settlement and after any appeals are resolved.

What are the most important dates?

The Court has scheduled a Final Approval Hearing for May 8, 2024. If there are no appeals, checks will be sent approximately 52 days after the Court finally approves the Settlement. Your deadline to opt-out of the Settlement, or object to the Settlement, is April 8, 2024. If you are a part of the Claim Form group, complete and return a Claim Form by April 8, 2024.

Learning About the Lawsuit & Settlement

What is this lawsuit about?

Plaintiff Lonnie R. Berryman, Jr. (“Plaintiff”) filed a class action lawsuit in federal court against Defendant alleging that Defendant violated the FCRA by including notations on consumer reports that indicated the subject of the report was deceased when they were alive. The law requires that a consumer reporting agency, like Defendant, follow reasonable procedures to assure maximum possible accuracy.

Defendant denies that it did anything wrong or that it violated any laws. Defendant maintains that it follows reasonable procedures to assure maximum possible accuracy in the information it reports on all consumer reports. The Court has not determined that Defendant violated the FCRA. Nor has the Court made any determination that this lawsuit should proceed as a class action, as opposed to an individual claim brought by Plaintiff. This Notice should not be interpreted as an expression of the Court’s opinion on the merits of the lawsuit. If the parties had not reached a settlement, Defendant would have vigorously defended the lawsuit.

Within the Settlement, you are a member of the “Settlement Class.” The Settlement Class is defined to include: 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 out of the Settlement?

A \$450,758 Settlement Fund will be used to make settlement payments to the Class Members and to pay, if approved by the Court, a service award to the Class Representative of \$7,500, and to reimburse the Settlement Administrator for its expenses. Class Counsel will petition for their attorneys’ fees and costs, in the amount not to exceed \$267,242 to be paid from a fund separate and apart from the Settlement Fund. For more about Class Counsel and their payment, please see the following section.

If the Settlement is approved in full, each eligible Class Member will receive an equal settlement payment. Depending on the final number of eligible Class Members, and after deduction of the requested amounts to be approved by the Court to be paid from the Settlement Fund for administrative costs, and a service award, it is estimated that each Class Member will receive approximately \$511. However, the final amount of the payment may be more or less.

Who are the attorneys representing the Class and how will they be paid?

The Court has approved lawyers to represent the Settlement Class (“Class Counsel”). If you prefer to hire your own attorney to represent you in this case, you may do so at your own expense. The attorneys who have been appointed by the Court to represent the Settlement Class are:

E. Michelle Drake
Joseph C. Hashmall
Berger Montague PC
1229 Tyler Street NE, Suite 205
Minneapolis, MN 55413
(612) 594-5999

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Subject to Court approval, Class Counsel will seek attorneys' fees and costs in the amount of \$267,242, an amount that will not come from the Settlement Fund.

Class Counsel will also seek a service award in an amount not to exceed \$7,500 to be paid to Plaintiff for his services in representing the Settlement Class. The service award and settlement administration expenses will be paid from the Settlement Fund if approved by the Court.

Any approved amount of attorneys' fees and expenses or the Class Representative service award will be paid from the fund identified above, and no Class Member will owe or pay anything directly for the attorneys' fees and expenses of Class Counsel. You may hire your own attorney, if you so choose, but you will be personally responsible for your attorney's fees and expenses.

Class Counsel will file a motion for their attorneys' fees and expenses on or before March 23, 2024.

Deciding What You Want to Do

What are my options?

You have three options. You can (1) remain in the Settlement Class, or (2) exclude yourself (i.e., opt-out) from the Settlement, or (3) object to the Settlement.

This chart shows the effects of selecting each option:

	Remain in the Settlement Class	Opt-Out of the Settlement Class	Object to the Settlement
Am I bound by the terms of the Settlement if I...	Yes	No	Yes
Will I be able to receive money in the Settlement if I...	Yes* *If you are in the Claim Form group, you must also return a timely and valid Claim Form to receive money	No	Yes*

Your options and rights are explained in the following sections, along with the steps you must take if you wish to opt-out or object.

Doing Nothing

What are the consequences of doing nothing?

If you do nothing and remain in the Settlement Class, and you are in the Automatic Payment group or you are in the Claim Form group and return a timely and valid Claim Form, you will receive a settlement payment if the Court grants final approval of the Settlement.

No Class Members will have to pay or buy anything to benefit from the relief provided by the Settlement Agreement.

You will not be able to pursue claims against Defendant that are covered by the Settlement's release. You will be giving up all such claims whether you know about them or not. All the Court's decisions regarding the Settlement will apply to you and you will be bound by any judgment entered.

The precise terms of the dismissal and release are explained in the Settlement Agreement, which you can view on the settlement website, www.BerrymanSettlement.com.

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File a Claim

How do I submit a Claim?

If you are not identified as being a member of the Automatic Payment group of Class Members, you may submit a form to the Settlement Administrator claiming payment from the Settlement if you were the subject of a consumer report by the Avantus, LLC line of business that included a deceased notation when you are, in fact, alive.

To submit a Claim Form, please complete the Claim Form attached to the Notice you received and mail it to Berryman v. Avantus, LLC, c/o Settlement Administrator, P.O. Box 16, West Point, PA 19486. Your Claim Form must be postmarked by April 8, 2024. You may also submit a Claim Form at the settlement website, www.BerrymanSettlement.com.

Opting Out

What happens if I opt-out of the Class?

If you exclude yourself from the Settlement Class, you will not receive any money from the Settlement. You will not be bound by any of the Court's orders regarding the Settlement, or any judgment or release entered regarding the Class. You will retain any legal rights you may have against Defendant. You will be responsible for the fees and costs of any services provided by your own lawyer.

How do I opt-out?

If you wish to be excluded, you must mail a written request for exclusion addressed to the Settlement Administrator at Berryman v. Avantus, LLC, c/o Settlement Administrator, P.O. Box 16, West Point, PA 19486. Your request for exclusion must be in writing, signed by you, and postmarked on or before April 8, 2024. The request must state: "I request to be excluded from the Settlement Class in *Lonnie R. Berryman, Jr. v. Avantus, LLC*." The request must also be dated and include your name, address, and telephone number. If you exclude yourself, you are not eligible to receive a payment.

Notwithstanding the foregoing, no person within the Settlement Class may submit a Request for Exclusion for any other person in the Settlement Class. If a Class Member submits both a Request for Exclusion and a Claim Form, the Claim Form shall take precedence and the individual shall *not* be deemed to have validly excluded himself or herself from the Settlement.

If you timely submit a valid Request for Exclusion, you will exclude yourself from the Settlement Class. You will not receive the benefits of the Settlement and you will not be bound by further orders or judgments in the Action, subject to Court approval. You will preserve your ability to independently pursue, at your own expense, any individual claims that you claim to have against Defendant. No person who has opted out of the Settlement may object to any part of the Settlement Agreement.

Objecting to the Settlement

What happens if I object to the Settlement?

If you object according to the steps below, the Court will consider your objection. If it overrules your objection, you will be bound by the Court's decision, and you will remain a part of the Settlement Class. You will receive a settlement payment if the Court grants final approval.

How do I object to the Settlement?

You may object to all or part of the Settlement if you think it is not fair, reasonable, and/or adequate. To object, you must submit to the Settlement Administrator at Berryman v. Avantus, LLC, c/o Settlement Administrator, P.O. Box 16, West Point, PA 19486, a written explanation of the reasons you think that the Court should not approve the settlement. Be sure to sign the letter and include your name, address, phone number, and the basis of your objection including any documentation, and include a notation that it is for "*Berryman, Jr. v. Avantus, LLC*." The deadline to postmark an objection to the Settlement Administrator is April 8, 2024. If you are represented by counsel in your objection, include that attorney's information.

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If you fail to timely serve a written objection, you shall not be permitted to object to the approval of the Settlement or Settlement Agreement and shall be foreclosed from seeking any review of the Settlement or the terms of the Settlement Agreement by appeal or other means.

Additional Information

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

The Court will hold a Final Approval Hearing on May 8, 2024 at 10:00 a.m. at 141 Church Street, New Haven, Connecticut 06510. At the Final Approval Hearing, the Court will consider whether the proposed Settlement is fair, reasonable, and adequate. The Court will also hear objections to the Settlement, if any. We do not know how long the Court will take to make its decision after the hearing. In addition, the hearing may be continued at any time by the Court without further notice to you.

You do not have to appear in order to receive a benefit.

Where can I get additional information?

This Notice is only a summary of the proposed Settlement. More details about the proposed Settlement, the date when appeals are no longer allowed and the Settlement is final, deadlines for certain actions, and your options are available in a longer document called the Settlement Agreement. You can get a copy of the Settlement Agreement by visiting www.BerrymanSettlement.com. The website also contains answers to common questions about the proposed Settlement. In addition, some of the key documents in the case will be posted on the website.

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

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