

**UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO**

**YOU ARE RECEIVING THIS NOTICE BECAUSE YOU APPLIED FOR EMPLOYMENT WITH THE KENAN ADVANTAGE GROUP, INC. (“KAG”) AND KAG OBTAINED A BACKGROUND REPORT AND MAY HAVE DENIED YOU EMPLOYMENT BASED ON THAT REPORT BETWEEN OCTOBER 17, 2016 AND JANUARY 31, 2019**

**YOU COULD GET A CASH PAYMENT FROM A CLASS ACTION SETTLEMENT.**

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

- A settlement will provide up to a maximum possible amount of \$938,068.00 to pay claims to persons who applied for a job with KAG and may have been denied employment based in whole or in part on a background check (consumer report).
- The settlement resolves a lawsuit about whether KAG violated the federal Fair Credit Reporting Act (“FCRA”) in how it obtained and/or used the background checks (consumer reports) of persons who applied for jobs with KAG; pays money to persons like you; and releases KAG from liability.
- You may be entitled to a cash payment of:
  - (1) a gross amount up to \$48.00 (less settlement administration costs, attorneys’ fees, litigation expenses, and a service award for the Plaintiff) because KAG obtained a consumer report about you for employment purposes between October 17, 2016 and January 31, 2019; and/or
  - (2) an additional amount of up to \$273.85 (less settlement administration costs, litigation expenses, and a service award for Plaintiff) **if** between October 17, 2016 and January 31, 2019, your consumer report included potentially adverse information that may have led KAG to deny you employment.
- Your legal rights are affected whether you act or don’t act. Read this notice carefully.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>	
<b>DO NOTHING</b>	If the Court approves the settlement, the payment described in this notice under (1) above will be sent to you automatically. You will not be able to sue KAG for the same claims alleged in this case.
<b>FILE A CLAIM FORM</b>	<b>You must file a claim no later than November 14, 2021, to receive the additional amount described in this notice under (2) above.</b> If the Court approves the settlement, the payments described in this notice under (2) will be sent to you if you file a Claim Form on or before November 14, 2021. The Claim Form is included with this Notice. You may submit your Claim Form online at <a href="http://www.KAGclassaction.com">www.KAGclassaction.com</a> , by email to <a href="mailto:info@KAGclassaction.com">info@KAGclassaction.com</a> , or by mail to KAG Class Action, c/o Settlement Administrator, PO Box 23680, Jacksonville, FL 32241.
<b>EXCLUDE YOURSELF</b>	Get no payment. This is the only option that allows you to ever be part of any other lawsuit against KAG about the legal claims in this case.
<b>OBJECT</b>	Write to the Court about why you do not like the settlement.
<b>GO TO A HEARING</b>	Ask to speak in Court about the fairness of the settlement.

Questions: Call (866) 294-8988 TOLL FREE or VISIT [www.KAGClassAction.com](http://www.KAGClassAction.com)  
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## BASIC INFORMATION

### 1. Why did I get this notice?

You received this notice because the records of KAG show that you applied for a company driver position at KAG and KAG may have denied you employment based in whole or in part on a background check or other consumer report between October 17, 2016 and January 31, 2019.

The Court sent you this notice because you have a right to know about a proposed settlement of a Class Action lawsuit, and about your options, before the Court decides whether to approve this Settlement. If the Court approves the Settlement and after objections and appeals are resolved, a settlement administrator will distribute the benefits the Settlement allows.

This notice explains the lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of the case is the United States District Court for the Northern District of Ohio, and the case is known as *Ballard v. The Kenan Advantage Group, Inc.*, Case No. 5:20-cv-01042-CEH. The person who sued is called the Plaintiff, and the company he sued, KAG, is called the Defendant.

### 2. What is this lawsuit about?

This lawsuit alleges that KAG did not comply with the FCRA based on how it obtained and/or relied upon or used the consumer reports of job applicants. If you are a Class Member, KAG procured and/or relied upon or used your consumer report in connection with your application for employment with KAG. The suit alleges that KAG violated your rights under a federal law – the FCRA – based on how it procured and/or relied upon or used your consumer report in connection with your application for employment with KAG. KAG denies liability.

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

In a class action, one or more people called Class Representatives (in this case Dwayne Ballard), sue on behalf of people who have similar claims. Collectively these people are called a Class or Class Members. One court resolves the issues for all Class Members, except for those who exclude themselves from the Class. U.S. District Magistrate Judge Carmen E. Henderson is in charge of this class action.

### 4. Why is there a settlement?

The Court did not decide in favor of the Plaintiff or KAG. The Plaintiff thinks he could have won at trial. KAG thinks the Plaintiff would not have won at trial. But there was no trial. Instead, both sides agreed to a settlement. That way, they avoid the cost of a trial and the people affected will get compensation. The Plaintiff and the Plaintiff's attorneys think the settlement is best for all Class Members.

## WHO IS IN THE SETTLEMENT?

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

You are a member of this Settlement Class and are affected by the settlement because you applied for employment with KAG and/or KAG obtained and/or relied upon or used your consumer report on or after October 17, 2016 through January 31, 2019 (“Class Period”).

Specifically, for the purposes of settlement only, the Court has provisionally certified two Classes defined as follows:

#### 1. Disclosure Class:

Questions: Call (866) 294-8988 TOLL FREE or VISIT [www.KAGClassAction.com](http://www.KAGClassAction.com)  
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All persons residing in the United States: (1) who applied for a company driver position with Defendant described by 15 U.S.C. § 1681b(b)(2)(C) during the Class Period; (2) about whom Defendant procured a consumer report; and (3) whom Defendant did not hire.

## 2. Adverse Action Class:

All persons residing in the United States: (1) who are members of the Disclosure Class; and (2) who are listed on KAG's Tenstreet tracking notes with at least one reference to "MVR," "DAC," "Speed" or "Fals."

## THE SETTLEMENT BENEFITS—WHAT YOU GET?

### 6. What does the settlement provide?

KAG has agreed to pay up to a maximum possible amount of \$938,068.00 to settle all claims presented by this lawsuit. Included in this total Settlement Amount is a "Common Fund" of up to a maximum possible amount of \$938,068.00, which is to be divided among two different groups of people:

Disclosure Class	Adverse Action Class
\$497,568.00	Up to \$430,500.00

### 7. What is the amount of my payment?

You are a member of the Disclosure Class and entitled to a gross amount of \$48 (less settlement administration costs, attorney's fees and litigation expenses, and a service award for the Plaintiff). The Parties anticipate that the net recovery for each Disclosure Class Member will be approximately \$29 after settlement administration costs, attorney's fees and litigation expenses, and a service award for Plaintiff.

Additionally, KAG's records indicate that you are also a member of the Adverse Action Class, which entitles you to an additional amount of up to \$273.85 **if you submit a valid claim form**.

## HOW DO YOU GET A PAYMENT?

### 8. How can I get a payment?

If you do nothing, you will automatically receive payment for the Disclosure Class. Since you are also a member of the Adverse Action Class, you will need to submit a valid Claim Form to receive the additional payment. **You must submit your Claim Form by November 14, 2021.**

Your Claim Form is included with this Notice. Your Claim Form may be submitted electronically or via electronic or regular mail.

**Online:** To submit your Claim Form online, please visit [www.KAGClassAction.com](http://www.KAGClassAction.com) and submit your Claim Form by 11:59 Eastern Time on November 14, 2021.

**By Email:** To submit your Claim Form by email, please email your completed Claim Form to [info@KAGClassAction.com](mailto:info@KAGClassAction.com) by 11:59 Eastern Time on November 14, 2021.

**By Mail:** To submit your Claim Form by mail, please enclose your completed Claim Form in an envelope postmarked (or equivalent) to the Settlement Administrator at the address below by or before November 14, 2021:

*KAG Class Action  
c/o Settlement Administrator  
PO Box 23680  
Jacksonville, FL 32241*

Questions: Call (866) 294-8988 TOLL FREE or VISIT [www.KAGClassAction.com](http://www.KAGClassAction.com)  
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If you elect to submit your Claim Form by mail, you are responsible for paying your own postage.

9. When would I get my payment?

The Court will hold a hearing on March 1, 2022 at 10:00 AM, to decide whether to approve the settlement. If the Court approves the settlement after that, there may be appeals. It's always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. Everyone will be informed of the progress of the settlement. Please be patient.

If the settlement is approved, you will receive your settlement payment by check to your address on file. To make sure the Settlement Administrator has your correct address on file, please call (866) 294-8988. If you move or your address changes for any reason, please contact the Settlement Administrator at (866) 294-8988 to update your address. You must cash your check within 60 days or your settlement payment will be forfeit.

10. What am I giving up to get a payment or stay in the Class?

Unless you exclude yourself, you are staying in the class, and that means that you can't sue, continue to sue, or be part of any other lawsuit against KAG about the legal issues in this case. It also means that all of the Court's orders will apply to you and legally bind you.

## EXCLUDING YOURSELF FROM THE SETTLEMENT

If you don't want a payment from this settlement, but you want to keep the right to sue or continue to sue KAG on your own about the legal issues in this case, then you must take steps to get out. This is called excluding yourself—or is sometimes referred to as opting out of the Settlement Class.

11. How do I get out of the settlement?

To exclude yourself from the settlement, you must send a letter by electronic or regular mail saying that you want to be excluded from *Ballard v. KAG*. Be sure to include your name, address, telephone number, and your signature. You must mail your exclusion request postmarked no later than November 14, 2021, to: KAG Class Action, c/o Settlement Administrator, PO Box 23680, Jacksonville, FL 32241. **You are responsible for paying your own postage.** You may exclude yourself by sending an email to KAG Class Action at [info@KAGclassaction.com](mailto:info@KAGclassaction.com). Your exclusion must be emailed by November 14, 2021.

If you ask to be excluded, you will not get any settlement payment, and you cannot object to the settlement. You will not be legally bound by anything that happens in this lawsuit. You may be able to sue (or continue to sue) KAG in the future.

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

No. Unless you exclude yourself, you give up any right to sue KAG for the claims that this settlement resolves. If you have a pending lawsuit, speak to your lawyer in that case immediately. You must exclude yourself from this Class to continue your own lawsuit. Remember, the exclusion deadline is November 14, 2021.

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

No. If you exclude yourself, you will not receive any money from this settlement.

## THE LAWYERS REPRESENTING YOU

14. Do I have a lawyer in this case?

The Court appointed the law firms of O'Toole McLaughlin Dooley & Pecora, Co. LPA and CounselOne P.C., to represent you and other Class Members. These lawyers are called Class Counsel. You will not be charged directly for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

15. How will the lawyers be paid?

Class Counsel will ask the Court to approve payment of one-third of the Common Fund (approximately \$312,689.00) for attorney's fees incurred to prosecute the case. The fees would compensate Class Counsel for investigating the facts, litigating the case, and negotiating the settlement. Class Counsel will also ask the Court to approve payment of its litigation expenses and a service award payment up to \$10,000 to Dwayne Ballard for his service as Class Representative. These expenses will be paid from the Common Fund.

## OBJECTING TO THE SETTLEMENT

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

16. How do I tell the Court that I do not like the settlement?

If you're a Class Member, 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 not approve it. The Court will consider your views. To object, you must send a letter or email saying that you object to *Ballard v. KAG*. Be sure to include your name, address, telephone number, email address, your signature, and the reasons you object to the settlement. Mail the objection to the Settlement Administrator, KAG Class Action, c/o Settlement Administrator, PO Box 23680, Jacksonville, FL 32241 no later than November 14, 2021.

17. What is the difference between objecting and excluding?

Objecting is simply telling the Court that you don't like something about the settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you don't want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

## THE COURT'S FAIRNESS HEARING

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

18. When and where will the Court decide to approve the settlement?

The Court will hold a Fairness Hearing on March 1, 2022, at 10:00 AM, at the United States District Court for the Northern District of Ohio, Thomas D. Lambros Federal Building & U.S. Courthouse, 125 Market Street, Room 242, Youngstown, Ohio 44503. At this hearing the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay to Class Counsel. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take.

19. Do I have to come to the hearing?

No. Class Counsel will answer questions the Court may have, but you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you submitted your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

20. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your "Notice of Intention to Appear in *Ballard v. KAG*". Be sure to include your name, address, telephone number, and your signature. Your Notice of Intention to Appear must be postmarked no later than November 14, 2021 and be sent to the Clerk of the Court at the address listed in Question 18 above. You cannot speak at the hearing if you excluded yourself.

## IF YOU DO NOTHING

### 21. What happens if I do nothing at all?

If you do nothing, you will receive only one of the payments listed above, and you won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against KAG about the legal issues in this case, ever again. You must submit a valid claim form to receive both payments listed above.

## GETTING MORE INFORMATION

### 22. Are there more details about the settlement?

This notice summarizes the proposed settlement. More details are in a Stipulation of Settlement. You can get a copy of the Stipulation of Settlement by writing to the Settlement Administrator at KAG Class Action, c/o Settlement Administrator, PO Box 23680, Jacksonville, FL 32241 or by visiting [www.KAGClassAction.com](http://www.KAGClassAction.com)

### 23. How do I get more information?

You can call (866) 294-8988 toll free; write to KAG Class Action, ATTN: Settlement Administrator, PO Box 23680, Jacksonville, FL 32241; or visit the website at [www.KAGClassAction.com](http://www.KAGClassAction.com) where you will find answers to common questions about the settlement, plus other information to help you determine whether you are a Class Member and whether you are eligible for a payment.