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**From:** "Anthony v. Yahoo Settlement Notice" <anthonysettlement@tgcginc.com>  
**To:**  
**Subject:** Federal Court's Notice of Proposed Class Action Settlement. Please Read.  
**Date:**

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ROBERT ANTHONY v. YAHOO! INC., Case No.: C05 04175 RMW  
(USDC, NORTHERN DISTRICT OF CALIFORNIA SAN JOSE DIVISION)

**THIS NOTICE MAY AFFECT YOUR RIGHTS**  
**PLEASE READ ALL OF IT CAREFULLY**

**ATTENTION: ALL PERSONS IN THE UNITED STATES WHO WERE PAID SUBSCRIBERS  
TO YAHOO! PERSONALS BETWEEN OCTOBER 1, 2004 AND AUGUST 3, 2007**

Dear Yahoo!, Inc. Customer,

This notice (the "Notice") informs you of a proposed settlement of class action claims against Yahoo!, Inc. For the sake of brevity and clarity, Yahoo!, Inc. will be referred to for the remainder of this Notice simply as Yahoo! This Notice describes the proposed settlement and informs you of your potential rights as a settlement Class Member. You are being sent this Notice because you have been identified as a Yahoo! customer who paid to subscribe to Yahoo! Personals between October 1, 2004 and August 3, 2007. Yahoo! has agreed, under the terms of the Settlement, to provide you with the opportunity to submit a valid and timely Claim Form through which you may be eligible to receive monetary compensation as discussed below in Section 5.A.2.

**READ THIS FIRST**

**1. WHY SHOULD I READ THIS?**

This Notice, given pursuant to an Order of the Court dated August 3, 2007, describes a proposed settlement of a class action against Yahoo!, and you have been identified as a potential Class Member.

**2. WHY DID I RECEIVE THIS NOTICE?**

You received this Notice because a search of Yahoo!'s computer records indicates that you were a subscriber of Yahoo! Personals at some point between October 1, 2004 and August 3, 2007. This Notice provides a summary of the terms of the proposed settlement. It also explains the lawsuit, your potential legal rights under the Settlement, what benefits may be available to you under the Settlement, and how to get them.

**3. WHAT IS A CLASS ACTION?**

In a class action, one or more individuals or businesses, called Class Representatives (in this case, Robert Anthony) sue on behalf of others that have similar claims. All of these other individuals are members of the "class". One court resolves the issues for all Class Members, except for those who exclude themselves from the Class. United States District Court Judge Ronald M. Whyte is in charge of this class action.

#### **4. WHAT ARE THE CRITICAL DATES?**

<b>Event</b>	<b>Date</b>
The last date that your Claim Form must be postmarked if you wish to be eligible to possibly receive a payment under the terms of the Settlement.	December 15, 2007
The last date to submit your written request to be excluded from the Settlement if you are not willing to be bound by it and do not want to be eligible to receive a payment.	October 15, 2007
The last date to submit any written objection to the Settlement.	October 15, 2007
The hearing on any objections and to give final approval to the Settlement.	November 15, 2007

#### **5. WHAT IS THIS CASE ABOUT?**

On October 12, 2005, Robert Anthony ("Plaintiff") filed suit against Yahoo!, Inc. ("Yahoo!") in the United States District Court, Northern District of California. Plaintiff alleged various claims against Yahoo! (specifically, breach of the implied covenant of good faith and fair dealing, Florida statute §501.204 *et seq.*, fraud, and negligent misrepresentation), by virtue of his allegation that profiles posted for purposes other than dating appeared on the Yahoo! Personals website. Plaintiff brought suit on his own behalf and on behalf of all Yahoo! Personals paid subscribers in the United States since October 1, 2004. Plaintiff sought recovery of damages, various forms of equitable relief and attorneys' fees and costs. Yahoo! has denied, and continues to deny any and all claims and allegations of wrongdoing asserted in the case and has substantial factual and legal defenses to all claims alleged in the case. Yahoo! has maintained and continues to maintain that it has acted in accordance with governing law. Nonetheless, the parties have concluded that further participation in the case would be protracted and expensive, and that it is desirable that the case be fully and finally settled in the manner and upon the terms set forth in this Notice and in the Parties' Settlement Agreement.

##### **A. The Proposed Settlement**

Since filing the Action, Plaintiff, through Class Counsel, has conducted an investigation of the facts and has analyzed the relevant legal and factual issues. Class Counsel obtained substantial information about the nature and extent of Yahoo!'s challenged practices through this process.

Although Yahoo! does not believe it has done anything wrong and continues to deny all claims and allegations of wrongdoing asserted in the case, Plaintiff and Yahoo! agreed to enter into a Settlement Agreement after an extensive exchange of information and vigorous arms-length negotiation. If approved by the Court, the Settlement Agreement will result in dismissal of this case and final resolution of all claims raised. Such dismissal will release Yahoo! from future liability for the acts and practices complained of. The settlement terms are described in full in a document known as the Settlement Agreement (hereinafter "Agreement")<sup>1</sup>. The Agreement is available for your inspection at the clerk's office of the United States District Court, Northern District of California. The terms of the Settlement, in summary form, are as follows:

1. To the extent that they are not already in place, no later than 30 days after Final Approval of the Settlement, Yahoo! will take the following actions, which shall remain in force and effect for a period of two (2) years from the date of Final Approval of this Settlement by the Court:
  - (a) Yahoo! will maintain the "Report a Complaint" link on the profile detail pages appearing on the Yahoo! Personals website.
  - (b) Profiles that have been inactive for a period of 120 days shall be rendered unsearchable by Yahoo! and Yahoo! shall include this notification in its Additional Terms of Service relating to Yahoo! Personals.
  - (c) When a user of Yahoo! Personals cancels his or her subscription, a screen will be presented to the user giving the user the option to delete the profile, render the profile unsearchable or keep the profile active. If the user makes no selection, the profile will automatically be deactivated.
  - (d) Yahoo! will maintain mechanisms in place to detect duplicative photographs, abusive language and the revelation of improper personal information.
  - (e) Yahoo! will update its Additional Terms of Service relating to Yahoo! Personals to inform its users that that they may see profiles or other content which they feel were created by third parties, contrary to obligations in the applicable terms of services, guidelines and code of conduct, for purposes other than dating, including spam and commercial profiles.
  - (f) Yahoo! will modify its Additional Terms of Service relating to Yahoo! Personals to include disclosures regarding searchable Yahoo!-created test profiles, if any, that may be used when necessary to ensure service quality. The modifications will disclose how searchable test profiles, if any, are designated so that they are readily identifiable to users.
  - (g) Yahoo! may make additional changes to its site content, site functionality and Terms of Service in its sole discretion that do not substantially lessen the effectiveness of the changes listed above within the two-year period that this provision remains in effect.
2. Under the Settlement, an eligible Class Member who was a paid subscriber to Yahoo!

Personals between October 1, 2004 and August 3, 2007, and who viewed a profile during his or her subscription period that he or she believes was posted for purposes other than dating, is eligible to receive a one-time payment of up to \$35.00. If you are an eligible Class Member and wish to receive this benefit, you must timely submit a Claim Form to the Claims Administrator as described above.

## **B. Attorneys' Fees and Class Representative Compensation**

Counsel for the Settlement Class have pursued the Action on a contingent basis and have paid all costs of the Action. These attorneys have not yet been paid or recovered any of their expenses associated with the Action. As part of the Settlement, Class Counsel will request that the Court award them attorneys' fees and expenses. They intend to request \$1,000,000 in attorneys' fees plus reasonable costs. Class Counsel's petition for fees and expenses will be filed with the Court no later than October 5, 2007, and may be reviewed by any interested party. The Court will determine a reasonable fee and expense award at the Fairness Hearing based on Settlement Class Counsel's Fee and Expense Application and responses thereto. Class Counsel will also ask the Court to approve a \$20,000 Incentive Award to the Class Representative Plaintiff in this case (Robert Anthony). Any money the Court awards Settlement Class Counsel and the Plaintiff will be paid out of a settlement fund created by Yahoo!

## **6. DO I HAVE TO DO ANYTHING?**

If you are an eligible Class Member and you wish to receive a one-time payment of up to \$35.00 under this Settlement, you need to complete and submit a certified and authenticated Claim Form in a timely manner. This form is necessary to ensure that Yahoo! and Settlement Class Members' privacy rights are protected and to ensure that only eligible Class Members receive a monetary benefit. The Claim Form is available at the Settlement website at [www.AnthonySettlement.com](http://www.AnthonySettlement.com).

The fully completed, certified and authenticated Claim Form must be submitted via U.S. Mail to the Claims Administrator at Anthony, et al. v. Yahoo!, Inc. Settlement, c/o The Garden City Group, Inc., P.O. Box 9148, Dublin, OH 43017-4148. The deadline for submission of the Claim Form is December 15, 2007. Accordingly, to be valid, Claim Forms must be postmarked not later than December 15, 2007 and addressed to the Claims Administrator at Anthony, et al. v. Yahoo!, Inc. Settlement, c/o The Garden City Group, Inc., P.O. Box 9148, Dublin, OH 43017-4148. You may attend the court hearing described below if you wish, but your attendance or non-attendance will not affect your eligibility to submit the Claim Form. You do not need to appear in court, and you do not need to hire an attorney in this case. You may object to the proposed settlement if you so desire.

## **7. WHAT AM I GIVING UP IF I PARTICIPATE IN THE SETTLEMENT?**

The Settlement provides that once the Court enters an order finding the proposed settlement fair, adequate, and reasonable and all appeals have been resolved or all appeals periods have expired, those Class Members who have not timely requested exclusion from this Action shall be deemed to have and by operation of the Final Judgment shall have fully, finally and forever released, relinquished, and discharged all Released Claims as set forth below.

Specifically, the Settlement is intended to settle any and all known and unknown claims from

October 1, 2004 through August 3, 2007 against Yahoo! that Class Members have asserted or could have asserted based upon or in any way relating to, referring to, or arising out of profiles appearing on Yahoo! Personals that were posted for purposes other than dating (the "Released Claims").

The release will extend to Yahoo! and its past or present directors, officers, employees, partners, principals, agents, predecessors, successors, assigns, parents, affiliated and sister corporations, subsidiaries, licensees, divisions, and related or affiliated entities.

If the Settlement is approved by the Court and not otherwise terminated, the Court will dismiss the Action with prejudice, and bar and permanently enjoin the named Plaintiff and each Class Member from prosecuting the Released Claims. As a result, once the judgment of the Court in accordance with this Settlement has become final, each of the Class Members and their legal successors-in-interest shall be deemed to have forever given up any Released Claims against Yahoo! and the other Released Parties. If you were a paid subscriber of Yahoo! Personals between October 1, 2004 and August 3, 2007, and do not elect to exclude yourself from the Class, you will be deemed to have entered into this release and to have released the above-described claims. If the Settlement is not approved by the Court or does not become final for some other reason, the litigation will continue.

## **8. WHY ARE CLASS COUNSEL RECOMMENDING THIS SETTLEMENT?**

Relative to the risks and costs of continuing the litigation, Class Counsel believe this Settlement provides a favorable recovery which is in the best interest of the Class. Class Counsel's collective evaluation in this regard is based on the extensive investigation and discovery they have undertaken, and upon their experience prosecuting similar cases. Absent settlement, Plaintiff would have to secure class certification on the claims set forth in the Action over the opposition of Yahoo! Additionally, at trial, Plaintiff would have the burden of proof to establish liability and the amount of damages. The case involves many unresolved factual and legal issues, some of which could be decided against Plaintiff at or before trial, and which would jeopardize Plaintiff's ability to certify a class or to obtain a favorable judgment and preserve it on appeal.

In addition, settling the case now has the further advantage of avoiding the very substantial additional costs and delay that further litigation would involve. Given Yahoo!'s defenses to this case and both parties' right to appeal under appropriate circumstances, absent settlement, it could be years before the litigation ends and Class Members receive benefits, if any are ultimately awarded. Given the costs involved in further litigation and the time-value of money, even if a favorable judgment were obtained at trial, it could well produce less net recovery to the Class Members than the present settlement.

## **9. WHAT IF I DO NOT WISH TO PARTICIPATE IN THE SETTLEMENT?**

### **A. Your Right to Exclude Yourself from the Settlement**

If you are a Class Member, you may elect to exclude yourself from the Settlement Class. If you wish to be excluded from the Settlement Class, you must send a completed Request for Exclusion Form to the Claims Administrator via U.S. Mail at Anthony, et al. v. Yahoo!, Inc., c/o The Garden City Group, Inc., P.O. Box 9148, Dublin, OH 43017-4148 in a timely manner. The Request for Exclusion

Form must be postmarked on or before October 15, 2007 to be effective. The Exclusion Form is available at the Settlement website at [www.AnthonySettlement.com](http://www.AnthonySettlement.com). Exclusions can only be filed individually—not on behalf of a group or class. If you exclude yourself from the Class and the proposed settlement with Yahoo! is finally approved, you will not be entitled to receive any benefits of the Settlement and will remain free to pursue any legal rights you may have against Yahoo! at your own expense, but the representative Plaintiff and their lawyers will not represent you as to any claims against Yahoo!

## **B. Your Right to Appear and Object to the Proposed Settlement**

Any Class Member may appear at the Final Approval Hearing (also known as the "Fairness Hearing") in person or by a duly appointed authorized attorney and show cause, if any, why the Settlement should not be approved; provided that (except by special permission of the Court) no Class Member shall be heard unless, on or before, October 15, 2007, the Class Member files with the Court a written "Notice of Intent to Appear" to the clerk's address set out below, setting forth all of the Class Member's objections to the Settlement, and mails copies of all such papers to Plaintiff's and Yahoo!'s counsel at the addresses specified below. Any objection must contain: (a) a heading which refers to the Action; (b) the objector's name, address, and telephone number; (c) a statement whether the objector intends to appear at the Final Approval Hearing, either in person or through counsel, and, if through counsel, identifying counsel by name, address, and phone number; (d) a statement of the grounds supporting the claim; (e) a list of all persons who will be called to testify in support of the objection; (f) a list of other cases in which you or your counsel have appeared either as settlement objectors or as counsel for objectors during the preceding five (5) years; (g) copies of any papers, briefs, or other documents upon which the objection is based; and (h) your signature, even if you are also represented by counsel. The objection served upon Yahoo! must also include the objector's Yahoo! ID.<sup>2</sup>

<u>Office of the Clerk</u>	<u>Plaintiff's Counsel</u>	<u>Yahoo's Counsel</u>
United States District Court Northern District of California San Jose Division Clerk's Office 280 South 1st Street San Jose, CA 95113	Peter J. McNulty McNulty Law Firm 827 Moraga Drive Bel Air, California 90049  AND  Randy Rosenblum Freidin & Dobrinsky, P.A. One Biscayne Boulevard, Suite 3100 Miami, Florida 33131	Donald P. Rubenstein Kirsten J. Daru Reed Smith LLP Two Embarcadero Center Suite 2000 San Francisco, CA 94111

## **C. The Final Approval Hearing**

The Court will conduct a hearing (the "Final Approval Hearing") at the United States District Court,

Northern District of California, in the courtroom of the Honorable Ronald M. Whyte on November 15, 2007 at 9:00 a.m. (or at the dates and times to which the Court may, without further notice, reschedule the hearing). The purpose of the Final Approval Hearing will be to determine whether the proposed settlement is fair, adequate, and proper; and whether the Court should enter judgment approving the Settlement, awarding attorneys' fees and expenses, and dismissing the class action. You have the right, but are not required to attend. Attendance or non-attendance will not affect any benefit to which you may be entitled under the Settlement.

## **10. HOW DO I GET MORE INFORMATION?**

### **A. Availability of the Pleadings, the Agreement, and Other Papers in this Action**

The Agreement, with its exhibits and all other papers filed with the Court relating to this action, are available for inspection in the offices of the clerk of the Court identified above.

### **B. Additional Information Regarding The Terms Of This Settlement**

Additional information may be obtained at the Settlement website at [www.AnthonySettlement.com](http://www.AnthonySettlement.com). You may also contact Class Counsel, whose contact information is also available at [www.AnthonySettlement.com](http://www.AnthonySettlement.com).

**PLEASE DO NOT TELEPHONE THE COURT OR THE CLERK OF THE COURT.**

**Please do not reply to this message. We are unable to respond to inquiries sent in reply to this email. To contact us, please access the official settlement website at [www.AnthonySettlement.com](http://www.AnthonySettlement.com).**

<sup>1</sup> The capitalized terms as used in this Notice have the same meaning as the terms set forth in the Agreement.

<sup>2</sup> Your Yahoo! ID is the first portion of your Yahoo! email address. For instance, if your Yahoo! email address is johnsmith@yahoo.com, then your Yahoo! ID is "johnsmith".

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