

***Free Range Content, Inc. v. Google LLC***  
**U.S. District Court for the Northern District of California San Jose Division**  
**No. 5:14-cv-02329-BLF**

**Notice to Additional Settlement Class Members of Proposed Settlement**

If, between May 20, 2010 and May 7, 2018, you were an AdSense publisher, subject to the AdSense terms for the United States, American Samoa, Puerto Rico, the United States Minor Outlying Islands, the U.S. Virgin Islands, or Canada, and Google disabled or terminated your AdSense account, and withheld the unpaid amounts in your AdSense account in their entirety and permanently in connection with such disablement or termination, and the sum withheld totaled \$10 or more, you may be entitled to benefits under a class action settlement.

***A federal court authorized this Notice to Additional Settlement Class Members. This is not a solicitation from a lawyer.***  
***Your legal rights may be affected even if you do not act.***  
***Please read this Notice carefully.***

ADDITIONAL SETTLEMENT CLASS MEMBER LEGAL RIGHTS AND OPTIONS:	
SUBMIT A CLAIM FORM	If you submit a Valid Claim <sup>1</sup> by December 17, 2018, you may receive a payment. You will also give up your rights to sue Google and/or any other released entities regarding the legal claims in this case.
EXCLUDE YOURSELF FROM THE SETTLEMENT	This is the only option that allows you to sue Google and/or other released parties on your own regarding the legal claims in this case. You will not receive a payment from the settlement. The deadline for excluding yourself is December 17, 2018.

<sup>1</sup> All capitalized terms not otherwise defined in this document shall have the meaning ascribed to them in the Class Action Settlement Agreement (“Settlement Agreement”). The Settlement Agreement is available at [www.AdSensePublisherSettlement.com](http://www.AdSensePublisherSettlement.com).

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<p><b>OBJECT TO THE SETTLEMENT</b></p>	<p>Write to the Settlement Administrator about why you do not like the settlement. The deadline for objecting is December 17, 2018. These Objections will be shared with the Court. If you object to the settlement, you will be bound by the settlement’s terms and will not be allowed to exclude yourself from the settlement; you will lose the right to sue Google and/or any other released entities regarding the legal claims in this case.</p>
<p><b>DO NOTHING</b></p>	<p>If you do nothing, you will not receive any payment. You will lose the right to sue Google and/or any other released entities regarding the legal claims in this case.</p>

**1. What is this case about?**

Plaintiffs brought this class action lawsuit against Google Inc., as predecessor to Google LLC (“Google” or “Defendant”), and alleged that when Google terminated AdSense publishers for alleged breach of contract, it improperly withheld unpaid amounts in those publishers’ AdSense accounts. Plaintiffs alleged that Google’s conduct, among other things, breached the implied covenant of good faith and fair dealing. Google has at all times denied any and all alleged wrongdoing.

In a class action, one or more people called proposed Class Representatives (here, Free Range Content, Inc., Coconut Island Software, Inc., Taylor Chose, and Matthew Simpson (“Plaintiffs”)) sue on behalf of people who have similar claims. This group is called a “class” and the persons included in a settlement of these claims are called “Settlement Class Members.” One court resolves the issues for all of the Settlement Class Members, except for those who exclude themselves from the Settlement Class. The Honorable Beth Labson Freeman is in charge of this Action. The parties agreed to resolve these matters before these issues were decided by the Court. The Court still has to decide whether to finally approve the settlement.

**2. How do I know if I am a part of the Settlement Class?**

The Court has preliminarily certified a class for settlement purposes only. This class (the “Settlement Class”) is defined as:

All persons or entities Google’s records indicate are located within the United States, American Samoa, Puerto Rico, the United States Minor Outlying Islands, the U.S. Virgin Islands, or Canada, whose AdSense account Google disabled or terminated on any date between May 20, 2010 and May 7, 2018, and whose last

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AdSense unpaid amounts Google withheld in their entirety, and permanently, on any date between May 20, 2010 and May 7, 2018 in connection with such disablement or termination, and where the sum withheld totals \$10 or more.

Settlement Class Member is defined as any member of the Settlement Class who does not opt out of the settlement.

Additional Settlement Class Members are a small group of newly identified Settlement Class Members who were sent direct notice of the settlement on or after October 4, 2018 and not before.

### **3. What are the terms of the settlement?**

Under the proposed settlement, Google has agreed to create a Settlement Fund of \$11,000,000. This Settlement Fund will provide compensation to Settlement Class Members, pay for notice and administration costs, provide for any approved Service Awards to the Class Representatives who filed the case, and compensate the attorneys for any approved fee, cost, and expense awards.

If the settlement is finally approved, Settlement Class Members will be prevented from bringing any further claims against Google for any conduct relating to the termination of, or withholding of unpaid amounts from, any Settlement Class Member's Google AdSense account.

### **4. How will the Settlement Fund be distributed?**

The lawyers for the Settlement Class ("Class Counsel") will ask the Court to approve the following payments from the Settlement Fund:

- ) The costs of providing notice and administration of the settlement;
- ) Payments to each of the Class Representatives, not to exceed \$5,000 each, as compensation for their active participation in the case on behalf of the Settlement Class;
- ) Class Counsel's compensation for the time, costs, and expenses they spent litigating the case; and
- ) Payments to Settlement Class Members who file timely and valid Claim Forms according to the classifications and calculations outlined in question 6 below.
- ) The treatment of any residual funds remaining after payments to Settlement Class Members will be distributed as described in the payment scenarios described in question 6 below.

More information regarding the settlement, including the Settlement Agreement, can be found at the Settlement Website, [www.AdSensePublisherSettlement.com](http://www.AdSensePublisherSettlement.com).

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## 5. How can I get a Settlement Payment?

If you are an additional Settlement Class Member who was sent direct notice of the settlement on or after October 4, 2018, and you would like to receive a Settlement Payment, you must submit a Claim Form no later than December 17, 2018.

For all other Settlement Class Members, who were sent direct notice before October 4, 2018, the deadline to file a claim was September 4, 2018, and has passed.

You may complete the Claim Form online at [www.AdSensePublisherSettlement.com](http://www.AdSensePublisherSettlement.com), fax your Claim Form to 1-888-425-6983, or you may mail your Claim Form to the following address:

Free Range Content v. Google  
c/o GCG  
P.O. Box 10537  
Dublin, OH 43017-4537

If you do not file a Claim Form by the claim submission deadline that applies to you, you will not receive a payment. Note that for each Valid Claim, the default payment method will be ACH Transfer to the Claimant's bank account unless the Claimant specifies otherwise on their Claim Form.

## 6. How much will I receive from the settlement?

If you are a Settlement Class Member, and you submit a valid and timely Claim Form prior to the claim submission deadline that applies to you, you are eligible to receive a payment from the Settlement Fund. Your share of the Settlement Fund will depend on several factors, including the unpaid amount for your terminated AdSense account shown in Google's records. It will also depend upon the number of Valid Claims approved for payment and the total Amounts Allegedly Withheld for all Valid Claims. The amount of payment to each Claimant will vary.

All Claimants fall into one of three "Payment Groups," described below. All three groups were bound by the applicable contract for the United States, American Samoa, Puerto Rico, the United States Minor Outlying Islands, the U.S. Virgin Islands, or Canada. Your Payment Group depends on whether Google withheld your last AdSense unpaid amounts in connection with termination under the AdSense contract effective from May 20, 2010 through April 22, 2013 ("2010 Terms and Conditions"), or the contract effective from April 23, 2013 through May 7, 2018 ("2013 Terms of Service:"); and whether you submitted a notice of dispute to Google within 30 days of notice of termination or withholding in connection with such termination.

J Payment Group 1: Settlement Class Members who were bound by the 2013 Terms of Service and who sent a timely notice of dispute (including but not limited to an appeal). This notice must have been sent to Google within 30 days of notice from Google of termination of, or its intent to withhold unpaid amounts in connection with termination from, their disabled or terminated AdSense publishers' accounts. Payment Group 1

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includes Claimants whose AdSense account Google disabled or terminated on any date between and including April 23, 2013 and May 7, 2018.

- J **Payment Group 2:** Settlement Class Members who were bound by the 2010 Terms and Conditions and who sent a notice of dispute (including but not limited to an appeal). This notice must have been sent to Google within 30 days of notice from Google of termination of, or its intent to withhold unpaid amounts in connection with termination from, their disabled or terminated AdSense publishers' accounts. Payment Group 2 includes Claimants whose AdSense account Google disabled or terminated on any date from May 20, 2010 up to and including April 22, 2013.
- J **Payment Group 3:** Settlement Class Members who were bound by either the 2010 Terms and Conditions or the 2013 Terms of Service. These Class Members did not send a notice of dispute to Google within 30 days of notice from Google of termination of, or its intent to withhold unpaid amounts in connection with termination from, their disabled or terminated AdSense publishers' accounts. Payment Group 3 includes Claimants whose AdSense account Google disabled or terminated on any date from May 20, 2010 up until and including May 7, 2018.

There are three possible payment scenarios. In some scenarios, Claimants may be paid an Adjusted Amount. The Adjusted Amounts are based on percentages of the Claimant's individual Amount Allegedly Withheld. These Adjusted Amounts are as follows: 100% for Payment Group 1, 50% for Payment Group 2, and 30% for Payment Group 3.

- J **Payment Scenario 1 – The Net Settlement Fund exceeds the full amount of all Valid Claims.** Claimants submitting Valid Claims will be paid their Amount Allegedly Withheld, regardless of the Payment Group to which they are assigned. Any remaining amounts will be distributed as a “*cy pres*” award. *Cy pres* awards involve the distribution of settlement funds to worthy organizations whose missions align with the issues of the Settlement Class. In this case the proposed *Cy Pres* Recipients to be approved by the Court are Public Justice Foundation and Public Counsel.
- J **Payment Scenario 2 – The Net Settlement Fund is less than the sum of Amounts Allegedly Withheld for all Claimants submitting Valid Claims, but greater than the amount needed to pay each Claimant their Adjusted Amount.** In this scenario, Claimants will receive Settlement Payments of their Adjusted Amount. After this allocation, the percentage payments to Payment Group 2 will be increased until the Net Settlement Fund is exhausted. If the Adjusted Amount for Payment Group 2 reaches 100% and funds remain, the remainder shall be distributed to Claimants in Payment Group 3. All members of that Payment Group will have their Adjusted Amount evenly increased to a higher percentage until the Net Settlement Fund is exhausted.
- J **Payment Scenario 3 – The Net Settlement Fund is equal to or less than the Adjusted Amounts for all Claimants with Valid Claims.** If equal, Claimants with Valid Claims will be paid their Adjusted Amounts. If less, Claimants will be paid their Adjusted Amount decreased to a lower percentage, on a pro-rata basis. This adjustment will be reduced in a manner that maintains the 10 / 5 / 3 ratio of percentages between Payment

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Groups 1, 2, and 3.

No Settlement Payment shall be made to a Claimant who has elected to receive a check if the total Adjusted Amount is less than \$3.00.

The Court in charge of this case still has to decide whether to finally approve the settlement. Payments will be made if the Court approves the settlement and after any appeals are resolved. Please be patient.

### **7. How do I get out of the settlement?**

If you are an additional Settlement Class Member and do not want to be part of the settlement, you must submit an Opt-Out Form no later than December 17, 2018. For all other Settlement Class Members, who were sent direct notice before October 4, 2018, the deadline to submit an Opt-Out Form was September 4, 2018, and has passed. You may obtain the Opt-Out Form at [www.AdSensePublisherSettlement.com](http://www.AdSensePublisherSettlement.com). You will need to use the Opt-Out or Objection Password that was printed on the notice you received in order to submit an Opt-Out Form on the website. Your completed Opt-Out Form may be submitted via e-mail to [info@AdSensePublisherSettlement.com](mailto:info@AdSensePublisherSettlement.com), via fax to 1-888-425-6983, or via postal mail to the following address:

Free Range Content v. Google  
c/o GCG  
P.O. Box 10537  
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If you opt-out of the settlement, you will not be bound by the Settlement Agreement, you will not receive a Settlement Payment, and you will not be allowed to object to the settlement.

### **8. Do I have a lawyer in this case?**

Yes. The Court has appointed Class Counsel to represent you and other Settlement Class Members. In this case, Class Counsel are Steve W. Berman and Robert F. Lopez of the law firm of Hagens Berman Sobol Shapiro LLP. You will not be charged for these lawyers. If you want to be represented by another lawyer, you may hire one at your own expense.

### **9. How will the lawyers be paid?**

Since the beginning of this case, the attorneys representing the Settlement Class have not received any payment for their legal services or any reimbursement of the costs or out-of-pocket expenses they have incurred. Class Counsel has asked the Court to award attorneys' fees from the Settlement Fund not to exceed \$2,750,000, which is 25% of the gross Settlement Fund, and reimbursement of costs and expenses in the approximate amount of \$116,045.

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## 10. Will the Court review the fairness of the settlement?

The Court will hold a Final Fairness Hearing (“Hearing”) on February 7, 2019 at 1:30 PM. It will take place at the U.S. District Court for the Northern District of California, San Jose Division, Robert F. Peckham Federal Building & United States Courthouse, 280 South 1<sup>st</sup> Street, San Jose, CA 95113, in Courtroom 3 on the 5th Floor. At this Hearing, the Court will decide whether the settlement is fair, reasonable, and adequate. The Court will also consider whether to approve Service Awards and whether to award attorneys’ fees, costs, and expenses to Class Counsel. If there are Objections, the Court will consider them. The motions by Class Counsel for attorneys’ fees, costs, and expenses and Service Awards for the Class Representatives are available for viewing at [www.AdSensePublisherSettlement.com](http://www.AdSensePublisherSettlement.com).

The date of the Hearing may change without further notice to the Settlement Class. Settlement Class Members should check the Settlement Website or the Court’s PACER website to confirm that the date has not been changed.

## 11. How do I object to the settlement?

If you are a Settlement Class Member and do not opt out of the Settlement Class, you may object to any aspect of the settlement. This includes commenting on the applications for Class Representative Service Awards or the award of attorneys’ fees, costs, and expenses.

If you are an additional Settlement Class Member, your completed Objection must be submitted no later than December 17, 2018. For all other Settlement Class Members, who were sent direct notice before October 4, 2018, the deadline to submit an Objection was September 4, 2018, and has passed. You may submit your Objection online at [www.AdSensePublisherSettlement.com](http://www.AdSensePublisherSettlement.com) or via postal mail to the following address:

Free Range Content v. Google  
c/o GCG  
P.O. Box 10537  
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To submit an Objection on the Settlement Website you will need to use the Opt-Out or Objection password that was printed on the notice you received.

Any Objection must be in writing and must:

1. Clearly identify the case name and number, *Free Range Content, Inc. v. Google LLC.*, No. 5:14-cv-02329-BLF;
2. Include the full name, address, telephone number, email address, and AdSense publisher identification number (if known) associated with the Google AdSense account of the person or entity objecting;
3. Include the full name, address, telephone number, and email address of the Objector’s

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- counsel (if the Objector is represented by counsel);
4. Provide a detailed explanation stating the specific reasons for the Objection, including any legal and factual support and any evidence in support of the Objection; and
  5. Be verified by an accompanying declaration submitted under penalty of perjury or a sworn affidavit.

Settlement Class Members who fail to submit timely written Objections in the manner specified above by the Objection deadline that applies to them will waive their right to object to any aspect of the settlement.

## **12. Do I need to attend the Final Fairness Hearing?**

No. Class Counsel will answer any questions the Court may have. However, any Settlement Class Member who timely submits an Objection has the option to appear and request to be heard at the Final Fairness Hearing, either in person or through their counsel, by including a Notice of Intention to Appear in the body of the Objection. Objectors who fail to submit or include this Notice of Intention to Appear may not speak at the Final Fairness Hearing without permission of the Court. If you choose to make an Objection through an attorney or have an attorney appear at the Final Fairness Hearing on your behalf, you will be solely responsible for paying that attorney's fees.

## **13. How can I get more information?**

This Notice summarizes the proposed settlement. It does not describe all of its details. For the precise terms and conditions of the settlement, please see the Settlement Agreement and related documents. Additional information about the settlement, including a copy of the Settlement Agreement, may be obtained by:

- )] Visiting the Settlement Website at [www.AdSensePublisherSettlement.com](http://www.AdSensePublisherSettlement.com);
- )] Contacting the Settlement Administrator toll-free by phone at 1-888-684-5073 or by email at [info@AdSensePublisherSettlement.com](mailto:info@AdSensePublisherSettlement.com);
- )] Accessing the Court docket in this case through the Court's Public Access to Court Electronic Records (PACER) system at [ecf.cand.uscourts.gov](http://ecf.cand.uscourts.gov); or
- )] Visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, 280 South 1st Street, 2nd Floor, San Jose, CA 95113, between 9:00 am and 4:00 pm, Monday through Friday, excluding Court holidays.

**Please do not telephone the Court or the Court Clerk's Office to inquire about the settlement.**

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