

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

**JOHN TAYLOR, on behalf of himself and all others  
similarly situated,**

**Plaintiff,**

**v.**

**JVC AMERICAS CORPORATION,  
a Delaware Corporation,**

**Defendant.**

**Civil Action No. 07-4059 (FSH)**

**NOTICE OF PENDENCY AND PROPOSED  
SETTLEMENT OF CLASS ACTION, MOTION FOR  
ATTORNEYS' FEES, AND SETTLEMENT FAIRNESS HEARING**

**TO: ALL PERSONS AND ENTITIES WHO PURCHASED OR OTHERWISE ACQUIRED A JVC BRAND TELEVISION MODEL LT-40FH96; HD-56FH96; HD56FH96Ai; HD-61FH96; HD-70FH96; LT-40FH97; LT-40FN97; LT-46FH97; LT-46FN97; HD-P61R1U; OR HD-P70R1U WITHIN THE UNITED STATES OF AMERICA.**

This Notice is to inform you of the proposed settlement of this action (the "Settlement") pursuant to a Stipulation and Agreement of Settlement entered between the Plaintiff and Defendant JVC Americas Corp. ("JVC"). If you are a Class Member, as defined below, your rights will be affected by the Settlement and you may be entitled to share in the proceeds of the Settlement as described further below. To claim your share, you must submit a claim form, as described more fully below, postmarked on or before September 10, 2009. If you are a Class Member and do not submit a timely request for exclusion, as explained further below, you will be bound by the Release whether or not you submit a claim.

<b>IMPORTANT DATES UNDER THIS SETTLEMENT</b>
<b>Submit a Proof of Claim Form no later than September 10, 2009.</b>
<b>Request exclusion from the Class in writing no later than September 10, 2009.</b>
<b>Object to the Settlement in writing no later than September 10, 2009.</b>
<b>Settlement Hearing to be held on November 2, 2009, at 12:00 PM before the Honorable Patty Shwartz, United States Magistrate Judge at the United States District Court District of New Jersey, Post Office and Courthouse Building, 50 Walnut Street, Court Room 10, Newark, New Jersey 07101. (Your presence at the Settlement Hearing is not required.)</b>

**These deadlines and their effect are explained in this Notice.**

**The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made only if the Court approves the Settlement and after any appeals are resolved.**

## **STATEMENT OF PLAINTIFFS' RECOVERY**

Pursuant to the Stipulation and Agreement of Settlement described in this Notice, a Settlement Fund consisting of \$1,000,000 in cash will be established. The Settlement Fund, subject to deduction for costs of notice and administration (which are estimated to be approximately \$100,000), taxes and tax-related expenses, attorneys' fees, costs, and other expenses as approved by the Court, will be available for distribution to Settlement Class Members. The Class's attorneys will seek attorneys' fees of up to 33.33% of the Settlement Fund, and reimbursement of costs and expenses of up to \$8,653.00

A Class Member's individual recovery will depend on a number of factors, including the actual costs of notice and administration. Each Class Member's recovery will be a proportion of the Net Settlement Fund as compared to the total number of Claims of all Class Members who submit valid Proofs of Claim.

According to JVC, 19,132 televisions of these models were sold in the United States. In the event that valid Proofs of Claim are submitted for each of those televisions, the estimated distribution to each class member will be approximately \$29.00.

## **STATEMENT OF POTENTIAL OUTCOME**

Plaintiff and Defendant do not agree on liability or on the amount of damages that would have been recoverable from Defendant if Plaintiff were to have prevailed on any or all of the claims asserted. The issues on which the parties disagree include: (1) whether Defendant's sale of "1080p" televisions that could not accept native 1080p video signals via HDMI was conduct that would give rise to any liability to the Settlement Class in light of, among other things, statements in its promotional brochures as to the signals the televisions accepted and displayed; (2) whether Defendant has valid defenses to any such claims of liability; (3) whether a litigation class could be certified in this action, (4) the appropriate economic model for determining the amount by which the Settlement Class was damaged, if at all; (5) the amount of damages, if any, which the Settlement Class suffered as a result of their purchase of the subject televisions.

## **STATEMENT OF ATTORNEYS' FEES AND EXPENSES SOUGHT**

Plaintiff's Counsel intend to apply to the Court for an award of attorneys' fees believed by them to be fair, reasonable, and adequate as payment for their time and efforts expended in the prosecution of this action undertaken on a purely contingent basis, in an amount not to exceed thirty-three percent (33.33%) of the Settlement Fund, or an average of \$17.42 per television sold to the Settlement Class, as well as reimbursement for the expenses incurred or paid in the prosecution of this litigation in an amount not to exceed \$8,653.00.

## **IDENTIFICATION OF ATTORNEYS' REPRESENTATIVES**

Further information regarding the action and this Notice may be obtained by contacting Plaintiff's Counsel: Darren T. Kaplan, Chitwood Harley Harnes LLP, 1230 Peachtree Street, NE, 2300 Promenade II, Atlanta, GA 30309.

**Please do not call the Court.**

## **REASONS FOR SETTLEMENT**

For Plaintiff, the principal reason for the Settlement is the benefit to be provided to the Class now. This benefit must be compared to the risk that no recovery might be achieved if the case were litigated, and even if it were successfully litigated, recovery might only result after a lengthy and contested trial and/or appeals, possibly years into the future.

For Defendant, who denies all allegations of wrongdoing or liability whatsoever, the principal reason for the Settlement is to eliminate the expense, risk, and inherent uncertainty of litigation.

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## **BASIC INFORMATION**

### **Why did I get this Notice Package?**

You or someone in your family may have purchased or otherwise acquired one or more of the following models of JVC brand televisions within the United States of America: LT-40FH96, HD-56FH96, HD56FH96Ai, HD-61FH96, HD-70FH96, LT-40FH97, LT-40FN97, LT-46FH97, LT-46FN97, HD-P61R1U and HD-P70R1U (the “Subject Televisions”).

The Court directed that this Notice be sent to Class Members because they have a right to know about a proposed settlement of a class action lawsuit, and certain options in connection with that settlement, before the Court decides whether to approve it. If the Court approves the Settlement, and after any objections and appeals are resolved, an administrator appointed by the Court will make the payments pursuant to the Settlement.

This package explains the lawsuit, the terms of the Settlement, Class Members’ legal rights, the benefits provided by the Settlement, who is eligible for them, and how to obtain them.

The Court in charge of the case is the United States District Court for the District of New Jersey (the “Court”), and the case is captioned as *John Taylor v. JVC Americas Corporation*, Civil No. 07-4059 (FSH) (the “Litigation” or the “Action”). This case has been assigned to the Honorable Patty Shwartz, United States Magistrate Judge. The named plaintiff in the Action is John Taylor (“Plaintiff”), and the defendant is JVC Americas Corp. (“Defendant”).

### **What is this lawsuit about?**

On August 23, 2007, Plaintiff filed the Litigation against Defendant alleging that Defendant’s sale of certain models of televisions advertised as “1080p” which could not accept 1080p signals via the High-Definition Multimedia Interface (“HDMI”) input entitled all purchasers of such televisions to restitution, disgorgement, injunctive relief, compensatory, general, and special damages under theories of unjust enrichment, fraudulent concealment, breach of express warranty, breach of implied warranty, and violation of N.J.S.A. § 56:8-201.

Plaintiff alleged that he purchased a JVC television that was marketed as “1080p,” but was incapable of receiving a 1080p signal via HDMI, including from sources such as HD-DVD and Blu-Ray. Plaintiff asserted that he paid more for that television than he would have paid for a comparable high definition television that was not marketed as “1080p.”

Defendant moved to dismiss the Complaint on the grounds that, among other things, (i) “1080p” refers to the display resolution, since the televisions accept various signals and upconvert them to display at 1080p, (ii) JVC’s promotional materials for the Subject Televisions specifically identified the signals the televisions could accept, and 1080p was not among them, and (iii) the Subject Televisions are capable of receiving a signal from HD-DVD and Blu-Ray in several formats other than 1080p. By order dated May 29, 2008, the Court denied the Motion to Dismiss, finding that the determination of the issues raised by the motion were premature at the pleadings stage. On August 12, 2008, Defendant filed an answer to the Complaint, denying all material allegations and asserting a number of affirmative defenses. Thereafter, the parties engaged in discovery, and, following resolution by the Court of certain contested discovery issues, Plaintiff took the deposition of Defendant’s General Counsel on the issue of control over certain documents and reviewed over 24,000 pages of documents produced by JVC in this Litigation.

On September 19, 2008, Counsel for Plaintiff wrote to Counsel for Defendant with a formal demand for settlement. While discovery continued, counsel for the parties then began discussing the possibility of attempting to resolve this Litigation through settlement. The parties reached an agreement-in-principle to settle the litigation on or about November 24, 2008. By that time, document discovery had been completed, class discovery was closed, and fact discovery was to be completed by December 15, 2008.

### **Why is this a class action?**

In a class action, one or more people called class representatives sue on behalf of people who have similar claims. All of these people are members of a class. Bringing a case, such as this one, as a class action allows adjudication of many similar claims of persons and entities that might be economically too small to bring in individual actions if the Court agrees to certify the case to proceed as a class action. A single court resolves the issues for all Class Members, except for those who exclude themselves.

### **Why has Plaintiff agreed to settle the Action?**

The Court did not rule on the merits of the Complaint in favor of Plaintiff or Defendant. Plaintiff believes that the claims asserted in the Litigation have merit, and that if the case did not settle, he would prevail at trial. However, Plaintiff’s counsel recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the Litigation against the Defendant through trial and any appeals. Plaintiff’s Counsel have also taken into account the uncertain outcome and the risk of any litigation, especially in complex actions, as well as the difficulties and delays inherent in such litigation. Plaintiff’s Counsel are also mindful of the inherent problems in obtaining certification of a nationwide litigation class in this Action.

Plaintiff's Counsel represent that they have conducted a thorough investigation and substantial pretrial discovery relating to the claims alleged in the Complaint. Plaintiff's Counsel have analyzed the evidence adduced during their initial investigation and pretrial discovery, including a review of all relevant television industry standards, and have researched the applicable law with respect to the claims of Plaintiff, and the Class, against Defendant and Defendant's potential defenses thereto.

Plaintiff, by his counsel, has conducted arms'-length negotiations with Counsel for Defendant with respect to a compromise and settlement of the Action with a view toward settling the issues in dispute and achieving the best relief possible consistent with the interests of the Class. Based upon their investigation and the discovery conducted to date, Plaintiff's Counsel have concluded that the terms of the Settlement as set forth in the Stipulation are fair, reasonable, and adequate to Plaintiff and the Class, and in their best interests, and have agreed to settle the claims raised in the Action pursuant to the terms and provisions of the Stipulation, after considering (a) the substantial benefits that Plaintiff and members of the Class will receive from settlement of the Action; (b) the attendant risks of litigation; and (c) the desirability of permitting the Settlement to be consummated as provided by the terms of the Stipulation.

### **Defendant's denial of wrongdoing and/or liability**

Defendant has denied and continues to deny any wrongdoing or liability whatsoever in connection with the allegations in the Complaint. In particular, Defendant has denied and continues to deny that it committed any actionable wrong in connection with the marketing, advertising, or sale of the Subject Televisions, and denies that Plaintiff or Class Members were otherwise harmed by the conduct alleged in this case.

THIS NOTICE IS NOT INTENDED TO BE, AND SHOULD NOT BE CONSTRUED AS, OR DEEMED TO BE EVIDENCE OF, AN ADMISSION OR CONCESSION ON THE PART OF DEFENDANT WITH RESPECT TO ANY CLAIM OR ANY FAULT OR LIABILITY OR WRONGDOING OR DAMAGE WHATSOEVER, OR ANY INFIRMITY IN THE DEFENSES THAT DEFENDANT HAS ASSERTED.

THE STIPULATION AND AGREEMENT OF SETTLEMENT IS NOT AN EXPRESSION OF ANY OPINION BY THE COURT WITH RESPECT TO THE TRUTH OF THE ALLEGATIONS IN THE ACTION OR THE MERITS OF THE CLAIMS OR DEFENSES ASSERTED.

THIS NOTICE IS SOLELY TO ADVISE YOU OF THE PENDENCY OF THE ACTION AND THE PROPOSED SETTLEMENT THEREOF AND OF YOUR RIGHTS IN CONNECTION THEREWITH.

### **THOSE INCLUDED IN THE SETTLEMENT**

#### **How do I know if I am part of the Settlement?**

To determine if you will receive money from this Settlement, you must determine if you are a Class Member.

For purposes of the Settlement, pursuant to the Stipulation only, the parties have stipulated to the certification of a settlement class, subject to the Court's approval. "Class" and "Class Members" mean all persons and entities (other than those Persons who timely and validly request exclusion from the Class) who purchased or otherwise acquired one or more of the following models of JVC brand televisions within the United States of America: LT-40FH96, HD-56FH96, HD56FH96Ai, HD-61FH96, HD-70FH96, LT-40FH97, LT-40FN97, LT-46FH97, LT-46FN97, HD-P61R1U, and HD-P70R1U. Excluded from the Class are Defendant; any parent, subsidiary, affiliate, partner, officer, executive (having the title of Vice President or above), or director of Defendant during the Class Period; any entity in which any such excluded person has a controlling interest; and the legal representatives, heirs, successors, or assigns of any such excluded person or entity.

If you fall within the definition of the Settlement Class set forth above, then you are a Class Member. IF YOU DID NOT PURCHASE ONE OF THE JVC BRAND TELEVISIONS LISTED ABOVE WITHIN THE UNITED STATES OF AMERICA, YOU ARE NOT A CLASS MEMBER AND CANNOT SUBMIT A VALID PROOF OF CLAIM FORM.

### **THE SETTLEMENT BENEFITS — WHAT YOU GET**

#### **What does the Settlement provide?**

In exchange for the settlement and dismissal of the Action and a full release of all claims asserted therein, Defendant has agreed to pay \$1,000,000 that will be used to create a Gross Settlement Fund, to be distributed among all Class Members who submit valid Proof of Claim forms, after the deduction of costs of notice and administration, taxes and tax-related expenses, attorneys' fees, and other costs and expenses as approved by the Court (the "Net Settlement Fund").

#### **How much will my payment be?**

Your share of the Net Settlement Fund will depend on the total number of recognized claims in valid Proof of Claim forms received. According to JVC, 19,132 televisions of these models were sold in the United States. Assuming that every Class

Member were to submit a valid Proof of Claim form, the estimated distribution to each class member will be approximately \$29.00. Because it is unlikely that every Class Member will submit a Proof of Claim, the distribution to each Class Member may actually be in excess of that amount.

After all Class Members have sent in their Proof of Claim forms, the payment you receive will be that portion of the Net Settlement Fund equal to your Recognized Claim divided by the total of all recognized claims.

## **HOW YOU RECEIVE A PAYMENT — SUBMITTING A CLAIM FORM**

### **How can I receive a payment?**

To qualify for a payment, you must send in a timely and valid Proof of Claim form. A Proof of Claim form is included with this Notice. Read the instructions carefully, fill out the Proof of Claim form, sign it, and mail it postmarked no later than September 10, 2009.

### **When will I receive my payment?**

The Court has scheduled a hearing to be held on November 2, 2009, at 12:00 PM to decide whether to approve the Settlement, Plaintiff's Counsel's fee and expense application, and the Plan of Allocation. The Court may reschedule the hearing without further notice. If the Court approves the Settlement, there may be appeals therefrom. The resolution of appeals can take time, perhaps several years. Every Class Member who submits a valid Proof of Claim form will be informed of the determination with respect to their claim once any and all appeals have been resolved. Please be patient.

### **What am I giving up as a Class Member?**

Upon the "Effective Date" (as defined below), you and all other Class Members will release all "Settled Claims" (as defined below) against the "Released Parties" (as defined below).

The Settlement will become effective at such time as the Order entered by the Court approving the Settlement shall become final and not subject to appeal (the "Effective Date"), per the terms of the Stipulation.

"Settled Claims" means any and all demands, claims, rights or causes of action or liabilities whatsoever, whether based on federal, state, local, statutory or common law or any other law, rule or regulation (whether foreign or domestic), including both known claims and Unknown Claims, accrued claims and not accrued claims, foreseen claims and unforeseen claims, matured claims and not matured claims, class or individual in nature, that have been or could have been asserted in law or in equity in any forum by the Class Members or any of them against any of the Released Parties that arise out of or relate in any way to the allegations, transactions, facts, matters or occurrences, representations or omissions involved, set forth, or referred to in this Action, or that otherwise could have been asserted in the Action, except claims for repair or replacement arising under any valid warranty still in effect and any claims related to the enforcement of the Settlement of the Action.

"Released Parties" mean Defendant, its past, present, or future parents, subsidiaries, affiliates, joint venture partners, successors, predecessors, or other related companies and any and each and all of their respective past, present or future officers, directors, agents, employees, affiliates, attorneys, advisors, insurers, auditors, experts, heirs, executors, trusts, administrators, or assigns.

## **EXCLUDING YOURSELF FROM THE SETTLEMENT**

If you do not want to receive a payment from this Settlement, but you want to keep any right you may have to sue or continue to sue Defendant and/or the other Released Parties concerning the Settled Claims, you must take steps to remove yourself from the Class. This is called excluding yourself from (also referred to as "opting out" of) the Settlement Class.

### **How do I exclude myself from the proposed Settlement?**

To exclude yourself from the Settlement Class, you must send a signed letter by first class mail stating that you "request exclusion from the Class in *John Taylor v. JVC Americas Corporation*, Civil No. 07-4059 (FSH)." Your letter should state that you purchased or otherwise acquired a JVC Television model at issue, and the date(s), price(s), place(s) of purchase, model number(s), and serial number(s). In addition, be sure to include your name, address, and your signature.

You must mail your exclusion request postmarked no later than September 10, 2009 to:

*JVC 1080p Television Class Settlement*  
c/o The Garden City Group, Inc.  
P.O. Box 9356  
Dublin, OH 43017-4256

You cannot exclude yourself by telephone or by email. If you request to be excluded, you will not be legally bound by anything that happens in the Action, and you will retain the right to sue Defendant and/or the other Released Parties in the future. Note, however, that you will not receive any payment under the Settlement, nor be permitted to object to it.

**If I don't exclude myself, can I sue Defendant and/or the other Released Parties for the same or related things later?**

No. Unless you exclude yourself, you give up any and all rights to sue Defendant and/or the other Released Parties for any and all Settled Claims. If you have a pending lawsuit, speak to your lawyer in that case immediately. You must exclude yourself from *this* class action to continue your own lawsuit.

**If I exclude myself, can I get money from the Settlement?**

No. If you exclude yourself, do not send in a Proof of Claim form to request any payment from the Settlement Fund.

**THE LAWYERS REPRESENTING YOU**

**Do I have a lawyer in this case?**

The law firms of Chitwood Harley Harnes LLP, Kabateck Brown Kellner LLP, and Szaferman, Lakind, Blumstein, and Blader, P.C. are Counsel for Plaintiff representing all Class Members. You will not be separately charged for these lawyers' services. If you want to be represented by your own lawyer, you may hire one at your own expense.

**How will the lawyers be paid?**

Plaintiff's Counsel are moving the Court for an award of attorneys' fees from the Gross Settlement Fund in an amount not to exceed 33.33% of the Gross Settlement Fund and for reimbursement of their expenses in an amount no greater than \$8,653. The award of attorneys' fees shall be allocated among the lawyers in a fashion which, in the opinion of Plaintiff's Counsel, fairly compensates the various lawyers for their respective contributions in the prosecution of the Action. Defendant shall have no input in connection with, or liability arising from, the allocation of fees amongst Plaintiff's Counsel.

**OBJECTING TO THE SETTLEMENT**

You can tell the Court that you do not agree with the Settlement or some part of it, including the Plan of Allocation, Plaintiff's Counsel's application for an award of attorneys' fees and expenses, and/or the Class Representative's costs and expenses.

**How do I tell the Court that I do not like the Settlement?**

If you are a Class Member, you can object to the Settlement. You can provide reasons why you think the Court should not approve any or all of the Settlement terms or arrangements. To present your views to the Court, you must submit a proper objection by September 10, 2009, and according to the following procedures.

To object, you must send a signed letter stating that you object to the proposed Settlement in *John Taylor v. JVC Americas Corporation*, Civil No. 07-4059 (FSH). You must state that you purchased or otherwise acquired a JVC Television model at issue, and the date(s), price(s), place(s) of purchase, model number(s), and serial number(s), and state the reasons why you object to the Settlement or any part of it. In addition, be sure to include your name, address, and your signature. Your objection must be filed with the Court on or before September 10, 2009 at the following address:

Clerk of the Court  
United States District Court for the District of New Jersey  
Martin Luther King, Jr. Federal Building & U.S. Courthouse  
50 Walnut Street  
Newark, NJ 07101

You must also serve your objection on all counsel listed below:

*Plaintiff's Counsel*

Darren T. Kaplan  
CHITWOOD HARLEY HARNES LLP  
1230 Peachtree Street, NE  
2300 Promenade II  
Atlanta, GA 30309  
(404) 873-3900

*Defendant's Counsel*

Jeffrey L. Kessler  
James P. Smith III  
Corinne D. Levy  
DEWEY & LEBOEUF LLP  
1301 Avenue of the Americas  
New York, NY 10019  
(212) 259-8000

You may file an objection without having to appear at the Settlement Hearing.

ANY CLASS MEMBER WHO DOES NOT OBJECT IN THE MANNER DESCRIBED HEREIN WILL BE DEEMED TO HAVE WAIVED ANY OBJECTION, AND SHALL BE FOREVER FORECLOSED FROM MAKING ANY OBJECTION TO THE PROPOSED SETTLEMENT.

### **What is the difference between objecting and excluding myself from the Class?**

Objecting is simply telling the Court that you don't like something about the Settlement. If you object, you can still file a Proof of Claim. If you exclude yourself from the Class by September 10, 2009, you cannot object and you cannot file a Proof of Claim or receive any portion of the Settlement Fund.

### **EFFECT OF APPROVAL OF THE PROPOSED SETTLEMENT AND RELEASE**

If the Court approves the Settlement, judgment will be entered:

- (a) Approving the Settlement as fair, reasonable, adequate, meeting the requirements of due process, and being in the best interests of the Class; and
- (b) Dismissing with prejudice, and releasing and discharging, any and all Settled Claims against Defendant and the other Released Parties.

Upon the Effective Date, Plaintiff and each Class Member, on behalf of themselves, their successors, and assigns, and any other person claiming (now or in the future) through or on behalf of them, and regardless of whether any such Plaintiff or Class Member ever seeks or obtains by any means, including, without limitation, by submitting a Proof of Claim, any distribution from the Net Settlement Fund, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever RELEASED, RELINQUISHED, AND DISCHARGED all Settled Claims against the Released Parties, shall have covenanted not to sue the Released Parties with respect to all such Settled Claims, and shall be permanently barred and enjoined from asserting, instituting, commencing, or prosecuting any such Settled Claim against the Released Parties.

The Court will retain jurisdiction over the Action, including, without limitation, all matters with respect to implementation and enforcement of the terms of the Stipulation.

### **TERMINATION OF PROPOSED SETTLEMENT**

If there is no final Court approval of the Settlement in this case, or if Defendant withdraws from the Settlement in accordance with the Stipulation, or if the Settlement is not consummated for any other reason, the Stipulation will become null and void, and the parties will resume their former positions in this Action.

### **HOW TO GET MORE INFORMATION**

For a more detailed statement of the matters involved in this Litigation, you are referred to the papers on file in this Action, including the Stipulation, which may be inspected during regular business hours at the Office of the Clerk of the United States District Court for the District of New Jersey, Martin Luther King, Jr. Federal Building & U.S. Courthouse, 50 Walnut Street, Newark, NJ 07101.

PLEASE DO NOT CALL OR WRITE THE COURT DIRECTLY. IF YOU HAVE ANY QUESTIONS, PLEASE WRITE TO THE FOLLOWING COUNSEL REPRESENTING PLAINTIFF AND THE CLASS:

Darren T. Kaplan  
CHITWOOD HARLEY HARNES LLP  
1230 Peachtree Street, NE  
2300 Promenade II  
Atlanta, GA 30309

DATED: June 8, 2009

The Honorable Patty Shwartz, U.S.M.J.  
United States District Court for the District of New Jersey