

**If You Paid Active Advantage Membership Fees,  
A Settlement Has Been Reached that May Affect Your Rights**

**This Settlement Is in Addition to the DA Settlement. You Cannot Get a Duplicate Refund,  
But You May Be Entitled to Additional Money Through This Settlement.**

*The San Diego Superior Court authorized this notice.  
This is not a solicitation from an attorney.*

<b>YOUR LEGAL RIGHTS AND OPTIONS</b>	
<b>WHAT IS THIS?</b>	The parties have settled the lawsuit in which you are a class member. This notice informs you of the settlement terms and your options.
<b>SUBMIT A CLAIM FORM TO RECEIVE A SETTLEMENT AWARD</b>	To receive a full refund of Active Advantage membership fees, you must submit a Claim Form no later than January 9, 2017. If you submit a valid claim, you may also receive an enhanced award of up to three times the amount of your refunded membership fees, if settlement funds so permit.
<b>YOU CAN OBJECT</b>	Write to the Court about why you don't like the settlement.
<b>YOU CAN EXCLUDE YOURSELF</b>	Get out of this lawsuit. Receive no settlement award. Keep your right to separately sue Active.
<b>WHAT IS THE DISTRICT ATTORNEY (DA) SETTLEMENT AND HOW DOES IT RELATE TO THIS SETTLEMENT?</b>	You should have previously received notice of a settlement between the People of the State of California and Active (the District Attorney or "DA" settlement). This settlement is separate from the DA settlement. If you submitted a claim and received a settlement award in the DA settlement, you may be entitled to additional money through this settlement. You are not, however, entitled to a second refund. If you did not submit a claim in the DA settlement, do so now. Through this settlement you may receive a full refund of your Active Advantage membership fees and also additional money.

Your rights and options – and deadlines to exercise them – are explained in this notice.

\*\*\*Please read this entire notice carefully\*\*\*

**WHAT IS THIS LAWSUIT ABOUT?**

The lawsuit contends that Active's enrollment process for its Active Advantage program is misleading.

Active denies that its enrollment process is misleading.

The parties have agreed to settle the lawsuit. The Court has not ruled on plaintiff's claims or Active's defenses.

**AM I INCLUDED IN THE CLASS?**

The class includes all California consumers who from January 1, 2010 through December 31, 2013, enrolled in Active Advantage by means of a sign-up process offered, advertised, or initiated on any interstitial webpage appearing after the completion of the Registration Process.

Excluded from the class are those who already obtained a refund for all moneys paid for Active Advantage (unless the full refund was obtained through the District Attorneys' settlement) and those who used the Active Advantage membership benefits.

If you received notice of this settlement by an email or postcard, according to Active's records you are a class member.

## **THE SETTLEMENT TERMS**

### **WHAT CAN I RECEIVE UNDER THE SETTLEMENT?**

#### **Membership Fee Refunds**

Under the settlement, Active will create a settlement fund of \$1,250,000. The settlement fund will be used to fully reimburse eligible class members for the Active Advantage membership fees they paid.

If funds remain after paying claims for membership fee refunds, the remainder of the settlement fund might be distributed to Class Members in the form of enhanced settlement awards.

To receive a refund of membership fees and an enhanced settlement award, you must submit a Claim Form no later than January 9, 2017. Please carefully review the below section on How Do I Get My Settlement Award?

#### **Donated Active Advantage Memberships**

Under the settlement, Active will also donate Active Advantage memberships having a retail value of \$1,750,000. The free memberships will be donated to a variety of under-privileged or under-resourced groups in California, including university and college students, faculty and staff, YMCA members and Wounded Warriors Program members.

#### **Injunctive Relief Against Active**

Active will also be enjoined from violating certain California Business & Professions Code sections prohibiting false or misleading advertising.

#### **Settlement Administration and Attorneys' Fees**

Under the settlement, Active will also pay for the notice costs, settlement administration, attorneys' fees and expenses, and a service award to the named plaintiff. Payment of these fees and costs will not reduce your settlement award or your enhanced award.

### **HOW DO I GET MY SETTLEMENT AWARD?**

To receive a full refund of Active Advantage membership fees, ***you must submit a Claim Form***. A Claim Form was emailed to you. The forms are also available for download or electronic submission at [www.ActiveSettlement.com](http://www.ActiveSettlement.com) and [bholaw.com](http://bholaw.com).

You must complete and return your Claim Form so it is mailed postmarked no later than January 9, 2017, or submitted via the website no later than January 9, 2017.

If you already submitted and received a refund of your Advantage membership fees through the DA settlement, you do not need to submit another Claim Form. You will not receive a second refund, but you will be automatically entitled to receive an enhanced award through this settlement if there are sufficient settlement funds.

### **WHAT ARE ENHANCED SETTLEMENT AWARDS?**

If sufficient funds remain after determining the total amount of refunds to be paid to Class Members, additional payments from the settlement fund will be distributed to the Class Members who submitted timely valid Claim Forms in this settlement and in the DA settlement.

Enhanced Settlement Awards may be up to *three* times the amount of your refunded membership fees.

You must have submitted a timely valid Claim Form to be eligible for an Enhanced Settlement Award. Please be sure to submit a Claim Form no later than January 9, 2017.

### **WHEN WILL I RECEIVE MY SETTLEMENT AWARD?**

Awards will be mailed approximately 90 days after the Court grants final approval of the settlement and the settlement is no longer subject to appeal.

Checks will be mailed to the address on the Claim Form of each class member who submitted a timely, valid Claim Form. ***If you move, keep us informed of your new address.*** If you do not cash your check within 90 days, the check may be cancelled and you may not receive any award.

The tax treatment of the settlement awards is the responsibility of each Class Member. You should consult your tax advisor to determine the tax consequences, if any, of your settlement award.

## **IN RETURN FOR THESE SETTLEMENT BENEFITS, WHAT AM I GIVING UP?**

If the Court approves the proposed settlement, and unless you opt out in the manner described below, you will release (give up) all claims, demands, rights, lawsuits, and causes of action of whatever kind or nature, known or unknown, against Active that arise from or relate to the factual allegations and claims asserted in this case. You will not be able to assert these claims against Active in any other lawsuit or proceeding. This includes any lawsuit or proceeding already in progress. You will also waive any rights or benefits under Section 1542 of the California Civil Code, and any other similar law, which provides that “[a] general release does not extend to claims which a creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

The full terms of the release are contained in the Stipulation of Settlement that is available at [www.ActiveSettlement.com](http://www.ActiveSettlement.com), at [www.bholaw.com](http://www.bholaw.com), and in the public court records on file in this action.

You should also be aware that if you submit a timely valid Claim Form entitling you to a refund of the Advantage membership fees and you have a current Active Advantage membership, the membership will be cancelled.

## **THE LAWYERS REPRESENTING YOU**

### **DO I HAVE A LAWYER IN THIS CASE?**

Class Members are represented by the law firm of Blood Hurst & O’Reardon, LLP. These attorneys are experienced in class action litigation.

If you want to be represented by your own attorney, you may hire one at your own expense and enter an appearance through your own counsel.

### **HOW WILL THE LAWYERS BE PAID?**

The three law firms that worked on this litigation (Blood Hurst & O’Reardon, LLP, Premier Legal Center, A.P.C., and the Law Office of Robert G. Loewy, P.C.) will seek attorneys’ fees and reimbursement of out-of-pocket expenses.

The attorneys’ fees and expenses requested will not exceed \$800,000 in total. Active will not oppose the request for attorneys’ fees and expenses up to that amount. The Court must approve the request for attorneys’ fees and expenses. If approved by the Court, Active will pay fifty percent of the attorneys’ fees award from the Settlement Fund if sufficient funds remain after all Class Member awards and enhanced awards are paid, and will pay the remainder in addition to the Settlement Fund. Under no circumstances will payment of attorneys’ fees and expenses reduce your settlement award.

Plaintiff will also ask the Court to award her a service award for the time and effort she spent representing the class members in this lawsuit in the amount of \$750. The Court must approve the request for a service award. If approved by the Court, Active will pay the service award in addition to the settlement fund and other forms of settlement relief.

## **OBJECTING TO THE SETTLEMENT**

### **HOW DO I TELL THE COURT THAT I DO NOT LIKE THE SETTLEMENT?**

You can object to the settlement if you do not like any part of it and the Court will consider your views. To object, you must remain in the class.

To object, you must send a letter to the Court and the parties saying that you object to the settlement in *Weight v. The Active Network, Inc.*, Case No. 37-2014-00004713-CU-AT-CTL. You must include your name, address, telephone number, your signature, the reasons you object to the settlement, and whether you are represented by your own attorney.

Your objection **must be sent to and actually received** at three different places no later than January 13, 2017. Send your objection to:

Clerk of Court  
Superior Court of the  
State of California  
County of San Diego  
330 West Broadway  
San Diego, California 92101

Leslie Hurst  
Blood Hurst & O’Reardon, LLP  
701 B Street, Suite 1700  
San Diego, California 92101

Evan Nadel  
Mintz Levin Cohn Ferris Glovsky  
and Popeo, P.C.  
44 Montgomery Street, 36th Floor  
San Francisco, California 94104

## **OPTING OUT OF THE SETTLEMENT**

### **HOW DO I GET OUT OF THIS LAWSUIT?**

The settlement gives class members the opportunity to choose to stay in the class and receive a settlement award, or opt out of the class and retain their right to separately sue Active.

If you stay in the class and the settlement is approved, you will receive a settlement award as described above if you submit a timely valid Claim Form. However, you cannot separately sue Active. The judgment, rulings and orders in this case, whether favorable or unfavorable, will be binding upon you.

If you opt out, you will retain a right to separately sue Active at your own cost. You will not be bound by any judgment, rulings or orders, whether negative or positive, in this case. You will not receive a settlement award through this settlement. Before opting out of the class action, consult with a lawyer to determine whether your claim is barred by the statute of limitations.

If you want to opt out you must send a letter so *it is actually received no later than January 13, 2017*. The letter must include a statement indicating your intent to opt out such as: "I want to opt out of the class in *Weight v. Active*." The letter must be signed and: (i) provide your full name; and (ii) your contact information.

## **THE COURT'S REVIEW OF THE SETTLEMENT**

### **WHEN WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?**

The Court will hold a Final Approval Hearing at 1:30 p.m. on January 27, 2017, at the Superior Court, County of San Diego, 330 West Broadway, Department C-72, San Diego, California, 92101. At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. The Court will also consider the request for attorneys' fees and reimbursement of expenses and the service award. If there are objections, the Court will consider them at that time. After the hearing, the Court will decide whether to approve the settlement.

### **DO I HAVE TO COME TO THE HEARING?**

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

### **MAY I SPEAK AT THE HEARING?**

You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must file with the Court a "Notice of Intention to Appear." Be sure to include your name, address, telephone number, and your signature. Your Notice of Intention to Appear must be filed with the Court no later than January 13, 2017, and must also be served on Class Counsel and Active's Counsel (Mintz Levin). The addresses for the Court, Class Counsel and Active's counsel are listed above. You cannot speak at the hearing if you are not a class member or an attorney representing a class member.

## **GETTING MORE INFORMATION**

### **ARE THERE MORE DETAILS ABOUT THE SETTLEMENT?**

The Stipulation of Settlement contains the complete terms. You can get a copy of the Stipulation of Settlement at [www.ActiveSettlement.com](http://www.ActiveSettlement.com) and at [www.bholaw.com](http://www.bholaw.com). The Stipulation and the complete records of this case are on file and may be reviewed in the Court Clerk's Office at 330 West Broadway, San Diego, California 92101. Case records are also available on the court's website.

**PLEASE DO NOT CALL OR WRITE TO THE COURT FOR INFORMATION OR ADVICE**

DATED: December 8, 2016

/s/ The Honorable Timothy Taylor

JUDGE OF THE SUPERIOR COURT,  
COUNTY OF SAN DIEGO