

## **NOTICE OF PENDENCY OF CLASS ACTION**

*This is a court-approved Notice. It is not an attorney solicitation or advertisement.*

**Please read this Notice carefully as it explains a lawsuit that affects your legal rights.** This notifies you that you may be a member of a class (the “Class”) in the case *Wave Lengths Hair Salons of Florida, Inc. v. CBL & Associates Properties, Inc., CBL & Associates Management, Inc., CBL & Associates Limited Partnership, and JG Gulf Coast Town Center LLC* (the “Lawsuit”), which is now pending in the United States District Court for the Middle District of Florida (the “Court”).

On January 7, 2019, the Court certified the Lawsuit as a class action. The Court certified two Classes, as follows:

Nationwide Class: All tenants at shopping malls managed by CBL & Associates Management, Inc., whose electricity charges were determined based on a Valquest survey within the applicable limitations period.

-and-

Florida Class: All tenants at shopping malls in Florida managed by CBL & Associates Management, Inc., whose electricity charges were determined based on a Valquest survey within the applicable limitations period.

The applicable limitations period for both the Nationwide Class and the Florida Class is March 16, 2012 to December 31, 2018.

Because you may be a member of either Class, your legal rights are affected and you have a choice to make now:

<b>DO NOTHING:</b>	<b>Stay in the Lawsuit. Await the outcome. Give up the right to sue Defendants separately for this claim.</b>  If you wish to remain in the Lawsuit, you do not need to do anything. You will keep the possibility of getting money or benefits that may come from a trial or settlement. But you will give up any rights to sue the Defendants separately for the same legal claim at issue in this Lawsuit.
<b>ASK TO BE EXCLUDED:</b>	<b>Get out of the Lawsuit. Get no benefits from it. Keep the right to sue the Defendants separately for this claim.</b>  If you do not wish to remain in the Lawsuit, you can ask to be excluded. If any money or benefits are later awarded, you will not share in them. But you will keep any rights to sue the Defendants separately for the same legal claim at issue in this Lawsuit.

This Notice explains your options. To be excluded, you must act before **March 23, 2019**.

The purpose of this Notice is to explain to you:

1. Why you are getting this Notice;
2. What the Lawsuit is about;
3. What a class action is;
4. Who is included in the Class;
5. What a Valquest Survey is;
6. Who represents the Class;
7. What your rights and options are as a Class member;
8. How you may exclude yourself from the Class;
9. What to do if you are a Class member and a current tenant of a CBL-operated mall; and
10. How to obtain further information about the Lawsuit.

### **1. Why did I get this Notice?**

The Court authorized this Notice because Class members have a right to know about the Lawsuit and about their legal rights and options as they pertain to the Lawsuit. This Notice explains the Lawsuit and your legal rights as a Class member.

## 2. What is the Lawsuit about?

Judge Paul A. Magnuson, of the United States District Court for the Middle District of Florida, presides over this Lawsuit. This Lawsuit is styled *Wave Lengths Hair Salons of Florida, Inc. v. CBL & Associates Properties, Inc., CBL & Associates Management, Inc., CBL & Associates Limited Partnership, and JG Gulf Coast Town Center LLC*, No. 2:16-cv-00206. The entity who sued is called the “Lead Plaintiff.” The “Defendants” are CBL & Associates Properties, Inc., CBL & Associates Management, Inc., CBL & Associates Limited Partnership, and JG Gulf Coast Town Center LLC.

The Lawsuit involves electricity charges, paid by tenants at shopping malls managed by CBL & Associates Management, Inc., which were determined based on a Valquest Systems (“Valquest”) survey. The Class alleges that CBL and Valquest conspired to (1) mark up the amount billed Class members per kilowatt hour (kWh), charging them more per kWh than what CBL paid for the same electricity, and (2) charge Class members for more kilowatt hours of electricity than they actually received. The Class alleges that this conduct violated the Racketeer Influenced Corrupt Organizations Act (“RICO”), Florida’s Racketeer Influenced Corrupt Organizations Act (“Florida RICO”), and Florida’s Deceptive and Unfair Trade Practices Act (“FDUTPA”).

Defendants deny the Class’s allegations and assert that each tenant was charged in accordance with each tenant’s applicable lease terms.

The Court has not decided whether the Class’s or Defendants’ theory of the case is correct; this will be determined at the trial currently set for the trial term of April 1, 2019. By certifying the Classes and authorizing this Notice, the Court is not suggesting that the Class will prevail at trial on this case. The Class must prove its claims at trial.

## 3. What is a class action?

In a class action, one or more people called class representatives (in this case, Wave Lengths Hair Salons of Florida, Inc., a tenant at a mall formerly managed by CBL & Associates Management, Inc.) sue on behalf of people or entities who have similar claims. Once a class is certified, the lawsuit is resolved for all of the people and entities in the class, except for those who timely exclude themselves from the class.

## 4. Who is included in the Class?

On January 7, 2019, the Court certified the Lawsuit as a class action. The Court certified two Classes, as follows:

Nationwide Class: All tenants at shopping malls managed by CBL & Associates Management, Inc., whose electricity charges were determined based on a Valquest survey within the applicable limitations period.

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The applicable limitations period for both the Nationwide Class and the Florida Class is March 16, 2012 to December 31, 2018.

## 5. What is a “Valquest Survey?”

At certain shopping malls managed by CBL & Associates Management, Inc., Valquest Systems, Inc. prepared and provided surveys used by CBL to establish tenants’ electrical charges (the “Valquest Surveys”).

## 6. Who represents the Class?

The following law firms and attorneys have been certified by the Court as Class Counsel:

Buckner + Miles David M. Buckner, Esq. Seth E. Miles, Esq. Brett E. von Borke, Esq. 3350 Mary Street Miami, Florida 33133 (305) 964-8003	Hagens Berman Sobol Shapiro LLP Tom Loeser, Esq. 1301 Second Avenue Suite 2000 Seattle, Washington 98101 (206) 268-9337	Yormak Employment & Disability Law Benjamin H. Yormak, Esq. 9990 Coconut Road Bonita Springs, Florida 34135
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Email Class Counsel: [CBLclassaction@bucknermiles.com](mailto:CBLclassaction@bucknermiles.com)

These attorneys will represent you as part of the Class, unless you timely exclude yourself from the Class.

You have the right to hire your own attorney at your own expense. Class Counsel represents the Class on a contingency basis and will only receive attorneys' fees and reimbursement of their expenses if there is a recovery for the Class and the Court awards fees and costs. Payment to Class Counsel for attorneys' fees and expenses may be made from any recovery obtained from the Defendants.

#### **7. What are your rights and options as a Class member?**

If you want to remain a member of the Class, **you do not need to take any action. You will be bound by any judgment**, favorable or unfavorable, in this Lawsuit. This means that you will participate in any settlement or favorable judgment in the Lawsuit.

You will not need to appear at Court or participate in any trial. You are welcome to attend at your own expense.

#### **8. How does a Class member exclude itself from the Class?**

If you **DO NOT** wish to remain in the Class, you must send a request in writing to **CBL Electricity Lawsuit, c/o A.B. Data, Ltd., Attn: Exclusions, P.O. Box 173001, Milwaukee WI, 53217, postmarked no later than March 23, 2019**. In your exclusion letter, you must provide the following information: (1) the full legal name of the individual or entity that entered into the lease at the shopping mall managed by CBL & Associates Management; (2) the name and address of the shopping mall where the individual or entity was a tenant; and (3) the dates the individual or entity was a tenant at that shopping mall. Failure to provide all of this information will make your exclusion letter defective and you will remain a Class member.

If you request exclusion on behalf of anyone other than yourself, you must describe your legal authority to make this request.

If you exclude yourself from the Class, you will not participate in any settlement or favorable judgment in the Lawsuit but you also will not be bound by an unfavorable judgment.

#### **9. What if I am a Class member and also a current tenant at a shopping mall operated by CBL & Associates Management, Inc.?**

If you are a Class member and also a current tenant at a shopping mall operated by CBL & Associates Management, Inc., you may continue to conduct business with your landlord and CBL & Associates Management, Inc., as usual.

#### **10. How to obtain further information.**

If you need additional information about the Lawsuit, you should visit the website [www.CBLElectricityLawsuit.com](http://www.CBLElectricityLawsuit.com) for answers to frequently asked questions, to access the Court's orders and other documents in the Lawsuit, and for periodic updates about the litigation. If you cannot find the information you need there, you can contact Class Counsel at the addresses or telephone numbers above or by sending an email to [CBLclassaction@bucknermiles.com](mailto:CBLclassaction@bucknermiles.com).

Complete copies of all public pleadings, Court rulings, and other filings are available for review by accessing the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.flmd.uscourts.gov>, or by visiting during regular office hours at the offices of the Clerk of the United States District Court for the Middle District of Florida – Fort Myers, located at 2110 First St., Fort Myers, FL 33901. **Please do not contact the Court regarding the Lawsuit.**