

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

SANDI ROPER, Individually and on Behalf of All  
Others Similarly Situated,

Plaintiff,

v.

SITO MOBILE, LTD., *ET AL.*,

Defendants.

No. 2:17-cv-01106-ES-MAH

CLASS ACTION

**NOTICE OF PENDENCY AND PROPOSED  
SETTLEMENT OF CLASS ACTION**

**TO: ALL PERSONS OR ENTITIES WHO PURCHASED OR OTHERWISE ACQUIRED SITO MOBILE, LTD. COMMON STOCK BETWEEN AUGUST 15, 2016 AND JANUARY 2, 2017, INCLUSIVE.**

A federal court authorized this Notice. This is not a solicitation from a lawyer.

**PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. YOUR RIGHTS MAY BE AFFECTED BY PROCEEDINGS IN THIS ACTION.**

**Security and Time Period:** SITO Mobile, Ltd. (“SITO Mobile”) common stock purchased or acquired between August 15, 2016 and January 2, 2017, inclusive.

**Settlement Fund: \$1.25 million** in cash. Your recovery will depend on the amount of shares purchased and the timing of your purchases and any sales. Depending on the number of eligible shares that participate in the settlement and when those shares were purchased and sold, Lead Plaintiff estimates the average cash recovery per share of common stock will be approximately \$0.15 per share (assuming claims representing 8,500,000 shares are filed) before deduction of court-approved fees and expenses.

**Reasons for Settlement:** Avoids the costs and risks associated with continued litigation, including the danger of no recovery for Class Members.

**If the Case Had Not Settled:** Continuing with the case could have resulted in loss at summary judgment, trial or appeal. The two sides disagree on both liability and the amount of money that could have been won if Lead Plaintiff prevailed at trial. The issues on which the parties disagree are many and include: (1) whether Defendants engaged in conduct that would give rise to any liability to the Class under the federal securities laws, or any other laws; (2) whether Defendants have valid defenses to any such claims of liability; (3) the method for determining whether SITO Mobile common stock was artificially inflated, if at all, during the relevant period; (4) whether there was any inflation and the amount of any such alleged inflation; (5) the extent to which external factors or market factors influenced the trading price of SITO Mobile common stock during the Class Period; (6) the extent that various facts alleged by Lead Plaintiff influenced the trading price of SITO Mobile common stock during the Class Period; and (7) whether the facts alleged were material, false, misleading, or otherwise actionable under the securities laws.

**Attorneys’ Fees and Expenses:** Lead Counsel has not received any payment for their work investigating the facts, conducting this litigation or negotiating the settlement on behalf of Lead Plaintiff and the Class. Court-appointed Lead Counsel will ask the Court for an award of \$330,000 from the Settlement Fund as payment for attorneys’ fees and reimbursement of out-of-pocket litigation expenses. If the above amount is requested and approved by the Court, the average cost per share of common stock will be \$0.04.

**Deadlines:**

Submit Claim: **April 16, 2020**  
Request Exclusion: **March 17, 2020**  
File Objection: **March 17, 2020**

**Court Hearing on Fairness of Settlement: April 21, 2020**

**More Information:** [www.SITOMobileSecuritiesSettlement.com](http://www.SITOMobileSecuritiesSettlement.com) or

**Claims Administrator:**

*SITO Mobile Securities Litigation*  
Claims Administrator, Analytics Consulting LLC  
P.O. Box 2002  
Chanhassen, MN 55317-2002  
[info@SITOMobileSecuritiesSettlement.com](mailto:info@SITOMobileSecuritiesSettlement.com)

**Lead Counsel:**

Nicholas I. Porritt, Esq  
Levi & Korsinsky LLP  
1101 30th Street, N.W., Suite 115  
Washington, D.C. 20007  
[nporritt@zlk.com](mailto:nporritt@zlk.com)

Your legal rights are affected whether you act or do not act. Read this Notice carefully.

**YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:**

<b>SUBMIT A CLAIM FORM</b>	If you are a Class Member and do not exclude yourself from the Class, the only way to get a payment is to submit a claim form. You may submit a claim form and still object to any aspect of the settlement, the request for an award of attorneys’ fees and expenses and/or the Plan of Allocation. If you submit a claim form, you give up your right to participate in another lawsuit against the Defendants for the legal claims in this case. <i>See Answer to Question 12</i> for a more detailed description of what you are giving up if you submit a claim form.
<b>EXCLUDE YOURSELF</b>	Get no payment. This is the only option that allows you to participate in another lawsuit against the Defendants relating to the legal claims in this case.
<b>OBJECT</b>	If you are a Class Member and do not exclude yourself from the Class, you may write to the Court if you do not like the settlement, the request for attorneys’ fees and expenses, or the Plan of Allocation. If you submit an objection to the settlement, Plan of Allocation or the request for an award of attorneys’ fees and expenses and do not submit a claim form seeking payment from the settlement proceeds, your objection may be rejected because you would no longer have an interest in the settlement.
<b>GO TO A HEARING</b>	You may ask to speak in Court about the fairness of the settlement, the request for attorneys’ fees and expenses, or the Plan of Allocation.
<b>DO NOTHING</b>	<b>If you do nothing, you will not receive any payments, will not be allowed to object to the settlement, Plan of Allocation or Lead Plaintiff’s counsel’s request for an award of attorneys’ fees and expenses and will give up your right to participate in another lawsuit against the Defendants for the legal claims in this case.</b> <i>See Answer to Question 12</i> for a more detailed description of what you are giving up if you do nothing.

These rights and options – **and the deadlines to exercise them** – are explained in this Notice.

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

## BASIC INFORMATION

### 1. Why Did I Get This Notice Package?

You or someone in your family may have purchased or acquired the publicly traded shares of SITO Mobile common stock between August 15, 2016 and January 2, 2017, inclusive.

The Court ordered that this Notice be sent to you because you have a right to know about a proposed settlement of a class action lawsuit, and about all of your options, before the Court decides whether to approve the settlement. If the Court approves it and after any objections or appeals are resolved, the Claims Administrator appointed by the Court will make the payments that the settlement allows.

This package explains the lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of the case is the United States District Court for the District of New Jersey, and the case is known as *Roper v. SITO Mobile, Ltd.*, Case No. 2:17-cv-01106-ES-MAH. The person who sued is called the Lead Plaintiff, and the companies and the individuals they sued, SITO Mobile, Jerry Hug, and Kurt Streams, are called Defendants.

### 2. What is this Lawsuit About?

Lead Plaintiff has filed this lawsuit alleging that Defendants acted with scienter when making false and materially misleading statements and omissions about SITO Mobile's sales and revenue for the third and fourth quarters of 2016. Lead Plaintiff further alleges that these purportedly false and materially misleading statements and omissions induced Lead Plaintiff and other similarly situated shareholders to purchase shares of SITO Mobile common stock at artificially inflated prices. When the truth was revealed, Lead Plaintiff alleges that the value of SITO Mobile common stock declined significantly and, as a result, it and other members of the Class suffered substantial damages.

Defendants have denied and continue to deny each and all of the claims and allegations of wrongdoing made by Lead Plaintiff in the Litigation and maintain furthermore that they have meritorious defenses. Defendants expressly have denied and continue to deny all charges of wrongdoing or liability against them arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Litigation. Defendants also have denied and continue to deny, among other allegations, the allegations that the Lead Plaintiff or the Class have suffered any damage, that the price of SITO Mobile common stock was artificially inflated by reasons of alleged misrepresentations, non-disclosures or otherwise, or that the Lead Plaintiff or the Class were harmed by the conduct alleged in the Litigation.

### 3. Why Is This a Class Action?

In a class action, one or more people or entities called class representatives (in this case the court-appointed Lead Plaintiff) sue on behalf of people who have similar claims. All these people are called a class or Class Members. One court resolves the issues for all the Class Members, except for those who exclude themselves from the Class. Judge Esther Salas is in charge of this class action.

### 4. Why Is There a Settlement?

The Court did not decide in favor of the Lead Plaintiff or Defendants. Instead, both sides agreed to a settlement with the assistance of an experienced mediator. The settlement allows both sides to avoid the risks and cost of lengthy and uncertain litigation and the uncertainty of a trial and appeals, and permits Class Members to be compensated without further delay. Lead Plaintiff and its attorneys think the settlement is best for all Class Members.

## WHO GETS MONEY FROM THE SETTLEMENT

To see if you will get money from this settlement, you first have to determine if you are a Class Member.

### 5. How Do I Know if I Am A Part of the Settlement?

The Class includes all persons or entities who purchased or otherwise acquired SITO Mobile common stock between August 15, 2016 and January 2, 2017, inclusive, *except those persons or entities that are excluded, as described below.*

## 6. What Are the Exceptions to Being Included?

You are not a Class Member if you are:

- A Defendant;
- A director, officer, or employee of SITO Mobile during the Class Period;
- A member of the immediate family, trust, company, entity or affiliate controlled or owned by any excluded party; and
- Any firm or entity in which any Defendant has or had a controlling interest.

Also excluded from the Class are those Persons who timely and validly request exclusion from the Class pursuant to this Notice.

## 7. I'm Still Not Sure If I Am Included in the Class Action

If you are still not sure whether you are included, you can ask for free help. You can contact the Claims Administrator toll-free at 1-855-953-2395, or you can fill out and return the Proof of Claim form enclosed with this Notice package, to see if you qualify.

### THE SETTLEMENT BENEFITS – WHAT YOU GET

## 8. What Does the Settlement Provide?

Defendants have agreed to pay or cause to be paid a total of \$1.25 million in cash (the “Settlement Fund”). The Settlement Fund, plus interest earned from the date it is established, less costs, fees, and expenses (the “Net Settlement Fund”), will be divided among all eligible Class Members who send in valid Proofs of Claim forms. Costs, fees, and expenses include Court-approved attorneys’ fees and expenses and the costs of claims administration, including the costs of printing and mailing this Notice and the cost of publishing notice, and taxes on the Settlement Fund.

## 9. How Much Will My Payment Be?

Your share of the Net Settlement Fund will depend on several things, including, how many Class Members submit timely and valid Proof of Claim forms, the total recognized losses represented by the valid Proof of Claim forms that Class Members send in, the total number of shares of SITO Mobile common stock you purchased or acquired, how much you paid, when you purchased or acquired, and if you sold your shares and for how much.

By following the instructions in the Plan of Allocation, you can calculate what is called your Recognized Loss. The Plan of Allocation for this Settlement is as follows: Each Class Member that submits a valid Claim (an “Authorized Claimant”) will be assigned a Recognized Loss. An Authorized Claimant’s Recognized Loss depends upon the number of SITO Mobile shares held at certain points in time during the Class Period. The following table provides the per-share amount of each Authorized Claimant’s Recognized Loss. These amounts represent the average amount of potential damages per share:

Date Shares Purchased	Date Shares Sold		
	Before 11/15/16	11/15/16 to 1/2/17	After 1/2/17
8/15/16 to 11/14/16	\$0/share	\$0.76/share	\$1.96/share
11/15/16 to 1/2/17	N/A	\$0/share	\$1.20/share

It is unlikely that you will get a payment for all of your Recognized Loss. After all Class Members have sent in their Proof of Claim forms, the payment you get will be a part of the Net Settlement Fund equal to your Recognized Loss divided by the total of everyone’s Recognized Losses. Your payment will be made in cash.

The Plan of Allocation also includes the following provisions:

- 1) An Authorized Claimant will have a Recognized Loss only in connection with damaged shares. Thus, any transaction that resulted in a profit or gain will not be included in an Authorized Claimant's overall Recognized Loss;
- 2) There shall be no Recognized Loss attributed to any SITO Mobile securities other than Common Stock or to any shares of Common Stock purchased on a foreign exchange;
- 3) The date of a purchase or sale is the "trade" date and not the "settlement" date;
- 4) The last-in, first-out basis ("LIFO") will be applied to both purchases and sales;
- 5) Exercise of option contracts or the conversion of preferred stock into Common Stock will be considered to be purchases or sales of Common Stock as of the date of the exercise or conversion. Your purchase or sale price will be the closing price for the stock on that day, unless otherwise stated herein;
- 6) No cash payment will be made on a claim where the potential distribution amount is less than \$10. Please be advised that if you did not incur a Recognized Loss as defined in the Plan of Allocation, you will not receive a cash distribution from the Net Settlement Fund, but you will be bound by all determinations and judgments of the Court in connection with the Settlement, including being barred from asserting any of the Released Claims against the Released Parties;
- 7) No person shall have any claim against Lead Counsel or the Claims Administrator based on the distribution made substantially in accordance with the Stipulation and this Plan of Allocation, or further orders of the Court. In addition, Defendants and Defendants' Counsel have no responsibility for the Plan of Allocation, the administration of the settlement, or the distribution to Settlement Class Members, and no person shall have any claim against Defendants or Defendants' Counsel based on the Plan of Allocation, the administration of the settlement, or the distribution to the Settlement Class Members; and
- 8) Settlement Class Members who do not submit valid Proof of Claim forms will not share in the settlement proceeds. Settlement Class Members who do not either submit a request for exclusion or submit a valid Proof of Claim form will nevertheless be bound by the Settlement and the Order and Final Judgment of the Court dismissing this Consolidated Action.

## **HOW YOU GET A PAYMENT – SUBMITTING A CLAIM FORM**

### **10. How Will I Get a Payment?**

To qualify for payment, you must be an eligible Class Member and you must send in a Proof of Claim form. A Proof of Claim form is enclosed with this Notice. Read the instructions carefully, fill out the form, include all the documents the form asks for, sign it, and mail it in the enclosed envelope postmarked no later than **April 16, 2020**.

### **11. When Will I Get My Payment?**

The Court will hold a hearing on April 21, 2020, to decide whether to approve the settlement. If Judge Salas approves the settlement, there may be appeals. It is always uncertain whether these appeals can be resolved favorably, and resolving them can take time, perhaps several years. If there are no appeals and depending on the number of claims submitted, the Claims Administrator could distribute the Net Settlement Fund as early as nine months after the fairness hearing. Everyone who sends in a claim form will be informed of the determination with respect to their claim. Please be patient.

### **12. What Am I Giving Up to Get a Payment or Stay in the Class?**

Unless you exclude yourself, you are staying in the Class, and that means that you cannot sue, continue to sue, or be part of any other lawsuit against the Defendants about the same legal issues in this case. It also means that all of the Court's Order will apply to you and legally bind you and you will release your claims in this case against the Defendants. The terms of the release are included in the claim form that is enclosed.

## **EXCLUDING YOURSELF FROM THE SETTLEMENT**

If you do not want a payment from this settlement, but you want to keep the right to sue or continue to sue any of the Defendants on your own about the same legal issues in this case, then you must take steps to get out of the Class. This is called excluding yourself or is sometimes referred to as opting out of the Class.

### **13. How Do I Get Out of the Settlement Class?**

To exclude yourself from the Settlement Class, you must send a letter by mail stating that you want to be excluded from *Roper v. SITO Mobile, Ltd. et al*, Case No. 2:17-cv-01106-ES-MAH. You must include your name, address, telephone number, signature, and the number of shares of SITO Mobile common stock you purchased or acquired between August 15, 2016 and January 2, 2017, inclusive, the number of shares of SITO Mobile common stock sold during this time period, if any, and the dates, quantities, and prices of such purchases and sales. If you cannot find the prices or exact dates of your purchases, acquisitions and/or sales, you can still submit an exclusion request for review. You must mail your exclusion request postmarked no later than **March 17, 2020** to:

*SITO Mobile Securities Litigation*  
Claims Administrator, Analytics Consulting LLC  
P.O. Box 2002  
Chanhassen, MN 55317-2002

You cannot exclude yourself by phone or by e-mail. If you ask to be excluded, you are not eligible to get any settlement payment, and you cannot object to the settlement. You will not be legally bound by anything that happens in this lawsuit.

### **14. If I Do Not Exclude Myself, Can I Sue the Defendants for the Same Thing Later?**

No. Unless you exclude yourself, you give up any right to sue the Defendants and their Related Parties for the claims resolved by the settlement. If you have a pending lawsuit against any of the Defendants, speak to your lawyer in that case immediately. Remember the exclusion deadline is **March 17, 2020**.

### **15. If I Exclude Myself, Can I Get Money from This Settlement?**

No. If you exclude yourself, do not send in a Proof of Claim form. Once you exclude yourself, you will receive no cash payment even if you also submit a Proof of Claim.

## **THE LAWYERS REPRESENTING YOU**

### **16. Do I Have a Lawyer in This Case?**

The Court appointed the law firm Levi & Korsinsky, LLP to represent you and other Class Members. These lawyers are called Lead Counsel. These lawyers will apply to the Court for payment from the Settlement Fund; you have not been and will not otherwise be charged for their work. If you want to be represented by your own lawyer, you may hire one at your own expense.

### **17. How Will the Lawyers Be Paid?**

At the Settlement Hearing, Lead Plaintiff's Counsel will ask the Court for an award of \$330,000. This amount is intended to compensate Lead Plaintiff's Counsel for their attorneys' fees and out-of-pocket litigation expenses. Lead Plaintiff's Counsel's out-of-pocket litigation expenses in this action were approximately \$25,000. This award amounts to approximately 25% of the Settlement Fund. If awarded, the cost would be approximately \$0.04 per share. Such sums as may be approved by the Court will be paid from the Settlement Fund. Class Members are not personally liable for any such fees or expenses.

To date, Lead Counsel has not been paid for their services for conducting this litigation on behalf of the Lead Plaintiff and Class nor for their out-of-pocket expenses. The fees requested will compensate Lead Counsel for their work in achieving the Settlement Fund and is well within the range of fees awarded to class counsel under similar circumstances in other cases of this type. The Court may award less than this amount.

## **OBJECTING TO THE SETTLEMENT**

You can tell the Court that you do not agree with the settlement, the Plan of Allocation, or Lead Plaintiff's counsel's request for an award of attorneys' fees and expenses.

### **18. How Do I Tell the Court that I Do Not Like the Settlement?**

If you are a Class Member (and you have not excluded yourself), you can object to the settlement, the request for attorneys' fees and expenses, or the Plan of Allocation if you do not like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must send a letter saying that you object to the

settlement in *Roper v. SITO Mobile, Ltd.*, Case No. 2:17-CV-01106-ES-MAH. Be sure to include your name, address, telephone number, signature, the SITO Mobile common stock purchased and sold between August 15, 2016 and January 2, 2017, inclusive, and the reasons you object to the settlement, the requested attorneys' fees and expenses, or the Plan of Allocation. Any objection to the settlement must be filed with the Court at the following address no later than **March 17, 2020**.

Clerk of Court  
United States District Court  
Martin Luther King Building  
50 Walnut Street, Room 4015  
Newark, NJ 07101

Lead Counsel will then immediately provide to Defendants' Counsel any such objection.

### **19. What's the Difference Between Objecting and Excluding?**

Objecting is simply telling the Court that you do not like something about the proposed settlement. You can object *only if* you stay in the Class. Excluding yourself is telling the Court that you do not want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

### **THE COURT'S FAIRNESS HEARING**

The Court will hold a hearing to decide whether to approve the proposed settlement. You may attend and you may ask to speak, but you do not have to.

### **20. When and Where Will the Court Decide Whether to Approve the Settlement?**

The Court will hold a fairness hearing at **10:00 a.m.**, on **April 21, 2020**, at the United States District Court, District of New Jersey, Courtroom MLK 5A, Martin Luther King Building & U.S. Courthouse, 50 Walnut Street, Newark, NJ 07101. At this hearing the Court will consider whether the settlement of the Litigation is fair, reasonable, and adequate. If there are objections, the Court will consider them. Judge Salas will listen to people who have asked to speak at the hearing. The Court will also consider whether to approve the payment of fees and expenses to Lead Plaintiff's counsel and the Plan of Allocation. The Court may decide these issues at the hearing or take them under consideration. We do not know how long these decisions will take.

### **21. Do I Have to Come to the Settlement Hearing?**

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

### **22. May I Speak at the Settlement Hearing?**

You may ask the Court for permission to speak at the Settlement Hearing. To do so, you must send a letter saying that it is your intention to appear in *Roper v. SITO Mobile, Ltd. Securities Litigation*, Case No. 2:17-CV-01106-ES-MAH. Be sure to include your name, address, telephone number, signature, and the number of shares of SITO Mobile common stock purchased or acquired between August 15, 2016 and January 2, 2017, inclusive. Your notice of intention to appear must be filed no later than **April 7, 2020**, with the Clerk of the Court, at the address listed in Question 18. You cannot speak at the hearing if you exclude yourself from the Class.

### **IF YOU DO NOTHING**

### **23. What Happens if I Do Nothing At All?**

If you do nothing, you will get no money from this settlement. But, unless you exclude yourself, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Defendants or their Related Parties about the same legal issues in this case.

## GETTING MORE INFORMATION

### 24. Are There More Details About the Settlement?

This Notice only contains a summary of the proposed settlement. More details are in the Stipulation of Settlement dated as of July 31, 2019. You can get a copy of the Stipulation or more information about the Settlement by visiting [www.SITOMobileSecuritiesSettlement.com](http://www.SITOMobileSecuritiesSettlement.com).

You can also contact the Claims Administrator:

*SITO Mobile Securities Litigation*  
Claims Administrator, Analytics Consulting LLC  
P.O. Box 2002  
Chanhassen, MN 55317-2002

Or Lead Counsel:

Nicholas I. Porritt, Esq.  
Levi & Korsinsky, LLP  
1101 30th Street, N.W., Suite 115  
Washington, D.C. 20007

You can also obtain a copy from the Clerk's Office during regular business hours:

Clerk of Court  
United States District Court  
Martin Luther King Building  
50 Walnut Street, Room 4015  
Newark, NJ 07101

**DO NOT TELEPHONE THE COURT OR DEFENDANTS' COUNSEL REGARDING THIS NOTICE**

### SPECIAL NOTICE TO NOMINEES

If you hold shares of SITO Mobile common stock purchased between August 15, 2016 and January 2, 2017, inclusive, as a nominee for a beneficial owner, then, within ten (10) days after you received this Notice, you must either: (1) send a copy of this Notice and Proof of Claim by first class mail to all such beneficial owners; or (2) provide a list of names and addresses of such Persons to the Claims Administrator:

*SITO Mobile Securities Litigation*  
Claims Administrator, Analytics Consulting LLC  
P.O. Box 2002  
Chanhassen, MN 55317-2002

If you choose to mail the Notice and Proof of Claim yourself, you may obtain from the Claims Administrator (without cost to you) as many additional copies of these documents as you will need to complete the mailing.

Regardless of whether you choose to complete the mailing yourself or elect to have the mailing performed for you, you may obtain reasonable reimbursement for or advancement of reasonable administrative costs actually incurred or expected to be incurred in connection with forwarding the Notice and which would not have been incurred but for the obligation to forward the Notice, upon submission of appropriate documentation to the Claims Administrator.

**DATED: JANUARY 3, 2020**

**BY ORDER OF THE UNITED STATES  
DISTRICT COURT FOR THE  
DISTRICT OF NEW JERSEY**