

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

BARBARA MILLER, on behalf of herself and all others similarly situated,)	
)	
Plaintiff,)	Case Number 01-C-1047
)	
v.)	
NCO FINANCIAL SYSTEMS, INC.,)	Judge Charles N. Clevert
)	
Defendant.)	

NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT

***PLEASE READ THIS NOTICE CAREFULLY.
THIS IS NOT A NOTICE OF A LAWSUIT AGAINST YOU.
YOU MAY BENEFIT FROM READING THIS NOTICE.***

TO: All persons (i) who received one or more collection letters (ii) mailed in U.S. Department of Education envelopes, (iii) to a Wisconsin address, (iv) on or after October 12, 2000 (v) in an attempt to collect a student loan.

I. WHY ARE YOU RECEIVING THIS NOTICE?

This notice informs you, pursuant to Rule 23(c)(2) of the Federal Rules of Civil Procedure, that there is a class action lawsuit and settlement pending, entitled Barbara Miller v. NCO Financial Systems, Inc., case number 01 C 1047, in the United States District Court for the Eastern District of Wisconsin. **The lawsuit was not filed against you.**

II. WHAT IS THIS LAWSUIT ABOUT?

Plaintiff filed this action alleging that Defendant violated the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. (“FDCPA”) by mailing collection letter in envelopes bearing the name and address of the U.S. Department of Education.

Defendant denies any liability to plaintiff or the class.

Barbara Miller and Defendant have negotiated a class action settlement agreement. You appear to be a member of the class.

III. WHO IS IN THE CLASS?

On October 14, 2002, the Defendant stipulated that this lawsuit should continue as a class action. To be a member of the class, you must meet the following class description:

All persons (i) who received one or more collection letters (ii) mailed in U.S. Department of Education envelopes, (iii) to a Wisconsin address, (iv) on or after October 12, 2000 (v) in an attempt to collect a student loan.

IV. WHO REPRESENTS THE CLASS?

The following attorneys represent Barbara Miller and the class ("Class Counsel"):

Robert O'Reilly
ADEMI & O'REILLY, L.L.P.
3620 East Layton Avenue
Cudahy, Wisconsin 53110
(414) 482-8000
(414) 482-8001 (FAX)
Toll free: 1 (866) 264-3995

Daniel A. Edelman
Adela C. Lucchesi
EDELMAN, COMBS & LATTURNER, LLC
120 South LaSalle Street, 18th Floor
Chicago, Illinois 60603
(312) 739-4200
(312) 419-0739 (FAX)
Toll free: 1 (800) 644-4673
www.edcombs.com (website)
edcombs@aol.com (email)

Class Counsel represents your interests in this lawsuit. You will not be charged for their services. You may, however, hire your own attorneys at your own cost to advise you in this matter.

V. WHAT ARE THE POTENTIAL BENEFITS?

Defendant agrees to create a fund consisting of a total of \$42,000. The fund will be distributed as follows:

1. \$10,000.00 to the class, which consists of approximately 1,500 individuals. Each class member who submits a claim form will receive a pro rata share of the \$10,000.00. If any settlement checks are not cashed within 90 days, these funds will be reverted back to NCO.
2. Plaintiff Barbara Miller will receive \$1,000 for her services as class representative.
3. Upon Court approval, Plaintiff's attorneys will receive \$31,000.00 in fees and expenses. You are not responsible to pay any portion of attorneys' fees and costs.

VI. DESCRIPTION OF CLAIM

The claim asserted on behalf of the class against NCO Financial Systems, Inc. is under the Fair Debt Collection Practices Act ("FDCPA"). The FDCPA provides for both individual actions and class actions.

In a class action, the maximum possible recovery for the class is (i) any actual damages

suffered by the class members and (ii) statutory damages determined by the court, based on the culpability of the Defendant's conduct and the amount of harm caused by the defendant. The class can receive a maximum of \$500,000 or 1% of the defendant's net worth, **whichever is smaller**. In the instant case, one percent of defendant's net worth is \$70,000. 15 U.S.C. §1692k.

In an individual action, the person bringing the suit may recover (i) any actual damages suffered and (ii) statutory damages determined by the court, but not more than \$1,000. There is no minimum. In either an individual or class action, the person bringing the suit can also recover attorney's fees and the expenses of prosecuting the suit, if it is successful.

Subsequent to the negotiation of this settlement, the Fifth Circuit Court of Appeals, which includes states other than Wisconsin, held that mailing collection letters in envelopes bearing the name and address of the U.S. Department Of Education, violates the Fair Debt Collection Practices Act as a matter of law. The Fifth Circuit ruling is not binding on this case. However, if this ruling is followed, the value of your claims would be increased.

While the theoretical maximum statutory damages recoverable in an individual action is \$1,000, there is no minimum, and no assurance that if any significant number of persons attempt to recover \$1,000 each, that they will receive anything.

The court has the discretion to award anything between the maximum amount and zero, depending on the seriousness of the violation.

VII. FAIRNESS HEARING

A hearing will be held on the fairness of this proposed settlement. At the hearing, the Court will be available to hear any objections and arguments concerning the fairness of the proposed settlement, including the amount of the award to Plaintiff's counsel of costs and attorney's fees. The hearing will take place on **April 10, 2003, at 9:00 a.m.** before Judge Clevert in Room 222 of the United States District Court for the Eastern District of Wisconsin, 517 East Wisconsin Avenue, Milwaukee, WI 53202. **YOU DO NOT NEED TO APPEAR AT THIS HEARING UNLESS YOU OBJECT TO THE SETTLEMENT.**

VIII. WHAT ARE YOUR OPTIONS?

You have the choice of opting into, objecting or excluding yourself from the class. Each choice has certain risks and consequences. You have the right to discuss your decision with Class Counsel or your own attorney.

1. You have the right to exclude yourself from both the class action and the settlement by sending a request for exclusion to Sessions, Fishman & Nathan, LLP, 3850 North Causeway Boulevard, Suite 350, Metairie, Louisiana 70002-1752. **The request for exclusion must be received by Sessions Fishman & Nathan LLP on or before March 17, 2003,** and must refer to your name, address, and the name and number of the case. If you remain in the class, you are releasing actual damages, if any, that you have against defendant.

2. If you object to the settlement, and wish to submit an objection rather than simply exclude yourself from the class action, you must submit your objection in writing to Sessions, Fishman & Nathan, LLP, 3850 North Causeway Boulevard, Suite 350, Metairie, Louisiana 70002-1752. **The objection must be received by Sessions, Fishman & Nathan, LLP on or before March 17, 2003** and must refer to the name and number of the case. Any

objection must include your name and address and the name and number of the case and a statement of the reasons why you believe that the Court should find that the proposed settlement is not in the best interests of the class. If you do file an objection and wish it to be considered, you must also include in your objection a request to appear by telephone and telephone number where the Court can reach you at the time of the Final Approval hearing, or appear in person or by counsel at the final approval hearing before Judge Clevert on [approximately April 5, 2003], at . Please note that it is not sufficient to simply state that you object. You must state reasons why the settlement should not be approved.

3. If you want to participate in the class recovery, you must fill out and return the claim form that is attached to this Notice, **on or before March 17, 2003**. *If you neither return a claim form nor exclude yourself from the settlement, you waive your right to either participate in the class recovery or to bring another suit.* Claim forms are to be sent to Sessions, Fishman & Nathan, LLP, 3850 North Causeway Boulevard, Suite 350, Metairie, Louisiana 70002-1752. Any and all documents that are generated in the administration of the settlement, including returned notices or letters to counsel, will be destroyed one year after the effective date of the settlement.

IMPORTANT: THE COURT REQUIRES THAT ANY REQUESTS FOR EXCLUSION OR OBJECTIONS BE RECEIVED BY SESSIONS FISHMAN & NATHAN, LLP BY MARCH 17, 2003. IF YOU MAIL A REQUEST FOR EXCLUSION OR OBJECTION, YOU BEAR THE RISK OF THE REQUEST FOR EXCLUSION OR OBJECTION NOT BEING RECEIVED BY SESSIONS FISHMAN & NATHAN, LLP BY THE DEADLINE.

IX. RELEASES

1. **Class Member Release.** Each class member shall, as of the Effective Date, be deemed to release and forever discharge Defendant and all current and former affiliate companies, parents, subsidiaries, successors and assigns, and all current and former officers, directors, successors, predecessors, executors, administrators, agents, assigns, shareholders, insurers, affiliated companies, attorneys and employees (the "Released Parties"), from all claims, including any actual damages, set forth in the complaint and all claims arising out of the form of the collection letter and the conduct which is the subject of this action.

2. **Miller's Release.** Miller, on behalf of herself and her heirs, successors and assigns, agrees, promises, releases and forever discharges the Released Parties and their successors, assigns, agents, current employees, former employees, officers, shareholders, directors, attorneys, representatives, parent corporations, affiliated corporations and subsidiary corporations, from liability from any and all claims, controversies, actions, causes of actions, demands, torts, damages, costs, attorneys' fees, moneys due on account, obligations, judgments or liabilities of any kind whatsoever in law or equity, arising out of agreement or imposed by statute, common law or otherwise, from the beginning of time to the date this Agreement is signed, whether or not known now, anticipated, unanticipated, suspected or claimed, fixed or contingent, whether yet accrued or not and whether damage has resulted from such or not from all claims arising from this action. Miller represents that she has not assigned any claims that she now has, or ever had, against the Released Parties to any third parties, except attorney's fees for this action.

X. CORRECT ADDRESS

If this notice was forwarded by the Postal Service, or if it was otherwise sent to you at an

address which is not current, you should immediately send a letter to the attorneys for Defendant, stating your past and current addresses.

ATTORNEYS FOR DEFENDANT:

David Israel
Michelle A. Heurtin
SESSIONS, FISHMAN & NATHAN, L.L.P.
3850 North Causeway Boulevard, Suite 350
Metairie, Louisiana 70002-1752

XI. WHO CAN HELP WITH ADDITIONAL INFORMATION?

Any further questions that you or your attorney may have concerning this Notice should be directed to Class Counsel, Edelman, Combs & Lattuner, LLC or Ademi & O'Reilly, LLP. This description of the case is general and does not cover all of the issues presented in the case. In order to see the complete file, including a copy of the settlement agreement, you should visit the office of the Clerk of the United States District Court for the Eastern District of Wisconsin, 517 East Wisconsin Avenue, Milwaukee, Wisconsin 53202. The Clerk will make the files relating to this lawsuit available to you for inspection and copying at your own expense.

DO NOT ADDRESS ANY QUESTIONS ABOUT THE CASE TO THE CLERK OF THE COURT OR TO THE JUDGE. They are not permitted to answer your questions.

Date: January 10, 2003.

Sofron B. Nedilsky,
Clerk of the Court

Barbara J. Miller, Plaintiff v. NCO Financial Systems, Inc., Defendant
Case No. 01-C-1047 (U.S. District Court, Eastern District of Wisconsin)

CLAIM FORM

Please return this Claim Form to the following address:

David Israel
Michelle A. Heurtin
SESSIONS, FISHMAN & NATHAN, L.L.P.
3850 North Causeway Boulevard, Suite 350
Metairie, Louisiana 70002-1752

I am a member of the class and wish to participate in the class action settlement agreement for the case referenced above.

PRINT YOUR NAME

PRINT YOUR CURRENT ADDRESS

CITY, STATE AND ZIP CODE

YOUR SIGNATURE

REMEMBER: THE COURT REQUIRES THAT THIS PROOF OF CLAIM FORM BE RECEIVED ON OR BEFORE THE CLOSE OF BUSINESS MARCH 17, 2003.

IF YOU MAIL THE CLAIM FORM, YOU BEAR THE RISK OF THE CLAIM FORM NOT BEING RECEIVED BY SESSIONS FISHMAN & NATHAN, LLP BY THAT DEADLINE.