

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JAMES A. MITCHEM, individually and on
behalf of a class of similarly situated persons,

Plaintiff,

v.

ILLINOIS COLLECTION SERVICE, INC.,

Defendant.

Case No.: 09 C 7274

Judge Guzmán

Magistrate Judge Valdez

**THIS IS A NOTICE OF A SETTLEMENT OF A CLASS ACTION LAWSUIT. IN
ORDER TO PARTICIPATE IN THE SETTLEMENT YOU MUST SUBMIT THE
ATTACHED CLAIM FORM BY [45 days after mailing date]
THIS IS NOT A NOTICE OF A LAWSUIT AGAINST YOU.**

1. Why did I get this notice?

You are receiving this notice because you were identified as a person for whom Illinois Collection Service, Inc. (“ICS”) left a pre-recorded message between November 19, 2008, and December 9, 2009, which message allegedly did not make proper disclosure of ICS’s identity or state that it was a communication from a debt collector.

2. What is this lawsuit about?

This lawsuit claims that ICS: (1) violated the federal Fair Debt Collection Practices Act (“FDCPA”) by allegedly leaving prerecorded voice messages in which ICS did not properly disclose its identity or state that the message was a communication from a debt collector; and (2) violated the Telephone Consumer Protection Act (“TCPA”) by calling Plaintiff’s and the Class members’ cellular phones without consent using certain automated calling technology. Defendant denies that that it violated the FDCPA, TCPA, and other laws and denies all substantive allegations in the lawsuit. The TCPA claims of the plaintiff and the Class are not affected by this settlement.

3. Why is this a class action?

In a class action, one or more people called Class Representatives (in this case, James A. Mitchem), sue on behalf of a group (or a “Class”) of people who have similar claims regarding the prerecorded message used by ICS in an attempt to collect a debt.

4. Why is there a settlement?

To avoid the cost, risk, and delay of litigation, the parties reached a settlement agreement as to Plaintiff's and the class's FDCPA claims only.

5. How do I know if I am a part of the settlement?

For settlement purposes, the Court has certified a class consisting of all people who meet either or both of the following definitions:

(a) all natural persons with a telephone number corresponding to the (312) area code; (b) where Illinois Collection Service, Inc., left a prerecorded message in the form of the prerecorded voice message left for Plaintiff; (c) where Illinois Collection Service, Inc.'s records do show that the recipient of the call did not transfer to a live representative; (d) during a period beginning one year prior to the filing of this action and ending 20 days after the filing of this action [November 19, 2008 to December 9, 2009].

According to Defendant's records, you are a class member. Defendant has identified approximately 830 class members, including yourself.

YOUR BENEFITS UNDER THE SETTLEMENT

6. What can I get from the settlement?

If you postmark and return a claim form by _____, to _____, you will be entitled to a pro rata share of the Class Recovery. The Class Recovery will be approximately \$3,000. If all 830 class members return a claim form, which is unlikely, each claimant will receive about \$3.61. Class Counsel expects that between 10-20% of the class members will return a claim form and that each claimant will likely receive between \$36.14 and \$18.07. No class member is eligible to receive more than one check.

7. When will I receive these benefits?

You will receive these benefits approximately 30-45 days after the Court enters a Final Approval Order. This estimation is premised on the assumption that no objections are received.

8. I want to be a part of the settlement and receive these benefits. What do I do?

By _____, 2011, you need to complete, postmark and mail to _____ the claim form at the end of this notice.

9. What am I giving up to receive these benefits?

By staying in the class, all of the Court's orders will apply to you, and you give Defendant a "release." A release means you cannot sue or be part of any other lawsuit against Defendant

about the claims or issues in this lawsuit with respect to the prerecorded message at issue in the Complaint.

10. How much will the Class Representative receive?

Plaintiff Mitchem will receive a payment of \$1,000 for his FDCPA claims. This is subject to the Court's Approval.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want to receive the benefits of the settlement but you want to keep your legal claims against the Defendant, then you must take steps to exclude yourself from this settlement.

11. How do I get out of the settlement?

To exclude yourself from the settlement, you must send a letter by mail stating that you want to be excluded from *James A. Mitchem v. Illinois Collection Service, Inc.*, Case No. 09 C 7274, (N.D. Ill.). Be sure to include your name, address, telephone number, and your signature. You must mail your exclusion request so that it is postmarked **no later than _____, 2011**, to:

Clerk of the Court, United States District Court for the Northern District of Illinois, 219 S. Dearborn Street, Chicago, IL 60604

You must also send a copy of your request for exclusion to:

Curtis C. Warner
Warner Law Firm, LLC
Millenium Park Plaza
155 N. Michigan Ave., Suite 560
Chicago, IL 60601

Peter E. Pederson
Hinshaw & Culbertson LLP
222 N. LaSalle St., Suite 300
Chicago, IL 60601

12. If I exclude myself, do I still receive benefits from this settlement?

No, you will not receive anything resulting from the settlement, but you will have the right to sue the ICS over the FDCPA claims raised in this case, either on your own or as a part of a different lawsuit. If you exclude yourself, the time you have in which to file your own lawsuit (called the "statute of limitations") will begin to run again. You will have the same amount of time to file the suit that you had when this case was filed.

THE LAWYERS REPRESENTING YOU

13. Do I have a lawyer in this case?

The Court has named the law firm of Warner Law Firm, LLC as Class Counsel. You will not be charged for this lawyer; however, he will receive a payment from the defendant in an amount to

be determined by and approved by the Court. If you want to be represented by your own lawyer, you may hire one at your own expense. If you choose to hire your own lawyer, he or she must file an appearance by _____, 2011.

14. How will the lawyers be paid?

Subject to the Court's approval, ICS WILL pay counsel for Plaintiff and the FDCPA Settlement Class, Warner Law Firm, LLC, \$7,500.00, as reasonable attorneys' fees and costs incurred with respect to the FDCPA claims.

CLASS COUNSEL'S VIEWS ABOUT THE SETTLEMENT

15. Is this a fair settlement?

Class Counsel believes that this settlement is fair. The claim asserted on behalf of the class against ICS is under the FDCPA. The FDCPA is a federal statute which provides for both individual actions and class actions. In an individual action, the person bringing the suit may recover (i) any actual damages suffered; and (ii) statutory damages of between \$0 and \$1,000.00. (Plaintiff's complaint did not allege actual damages.) In a class action, the maximum possible recovery is (i) any actual damages suffered by the class members and (ii) the lesser of 1% of the Defendant's net worth or \$500,000.00. The Court, in its discretion, may award anything up to the maximum amount to a prevailing party. In either an individual or class action, the person bringing the suit can also recover attorneys' fees and the expenses of prosecuting the suit, if it is successful. Defendant has made it financials available to Class Counsel and upon review a \$3,000 settlement fund is more that the class could recover under the FDCPA where the Plaintiff has alleged only statutory damages on behalf of the class.

In this case, the class recovery of \$3,000 will be divided between those of the 830 class members who submit a timely claim form. Class Counsel expects that approximately 10-20% of the class members will return a claim form and that claimants will receive between approximately \$36.14 and \$18.07.

16. What is the Defendant's view of this settlement?

As stated above, by settling this lawsuit, ICS is not admitting that it has done anything wrong. ICA expressly denies the FDCPA claims asserted by the Plaintiff and denies all allegations of wrongdoing and liability.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you do not agree with the settlement or some part of it.

17. 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. In order to object to the settlement or any part of the settlement, you must send a letter (or legal brief) stating that you object and the reasons why you think the Court should not approve the settlement. You must include the name and number of the case: from *James A. Mitchem v. Illinois Collection Service, Inc.*, Case No. 09 C 7274, (N.D. Ill.), your name, address, telephone number, and your signature. If you are objecting to the settlement, you may also appear at the fairness hearing (explained below in answer to question no. 18). You must mail your objection so that it is postmarked no later than _____ 2011 to:

Clerk of the Court, United States District Court for the Northern District of Illinois, 219 S. Dearborn Street, Chicago, IL 60604

You must also send a copy of your objection to **both**:

Curtis C. Warner
Warner Law Firm, LLC
Millenium Park Plaza
155 N. Michigan Ave., Suite 560
Chicago, IL 60601

Peter E. Pederson
Hinshaw & Culbertson LLP
222 N. LaSalle St., Suite 300
Chicago, IL 60601

THE FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the settlement. You may attend if you wish, but you are not required to do so.

18. Where and when is the fairness hearing?

The Court will hold a fairness hearing on _____ a.m. in the courtroom of Judge Guzman, Room 1219 of the Dirksen Federal Building, 219 S. Dearborn St., Chicago, Illinois 60604. The purpose of the hearing will be for the Court to determine whether the proposed settlement is fair, reasonable and adequate and in the best interests of the class and to determine the appropriate amount of compensation for the Class Counsel. At that hearing, the Court will be available to hear any objections and arguments concerning the fairness of the proposed settlement.

YOU ARE **NOT** REQUIRED TO ATTEND THIS HEARING TO BENEFIT FROM THIS SETTLEMENT. The hearing may be postponed to a later date without notice. You are not required to attend.

GETTING MORE INFORMATION – CONTACT:

Warner Law Firm LLC
(Telephone) (312) 238-9820
(e-mail) info@warnerlawllc.com.

PROOF OF CLAIM FORM

RE: *James A. Mitchem v. Illinois Collection Service, Inc.*, Case No. 09 C 7274, (N.D. Ill.)

I WISH TO RECEIVE A SHARE OF THE SETTLEMENT.

**IMPORTANT: THIS CLAIM FORM MUST BE POSTMARKED ON OR BEFORE
_____ AND MAILED TO THE FOLLOWING ADDRESS:**

[ADDRESS OF CLAIMS ADMINISTRATOR]

PLEASE LEGIBLY PRINT THE FOLLOWING INFORMATION:

NAME: _____

MAILING ADDRESS: _____

IF YOUR NAME DIFFERS FROM THAT WHICH APPEARS ON THE MAILING LABEL, PLEASE NOTE THE NAME OF THE PERSON TO WHOM THIS NOTICE WAS ADDRESSED HERE:

IF THIS NOTICE WAS MAILED TO AN ADDRESS OTHER THAN YOUR CURRENT ADDRESS, PLEASE NOTE THE ADDRESS HERE:

SIGNATURE: _____