

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA**

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

**IF YOU RECEIVED A LETTER FROM NATIONAL ACTION FINANCIAL SERVICES, INC. STATING THAT CAVALRY PORTFOLIO SERVICES, LLC WAS THE CURRENT CREDITOR OF A DEBT, YOU MAY BENEFIT FROM THIS CLASS ACTION SETTLEMENT.**

The case is *Caroline Defauw v. National Action Financial Services, Inc. and Cavalry Portfolio Services, LLC*,  
Case No. 3:12 CV 406(CAN)

*A Federal court authorized this notice. This is not a solicitation from a lawyer.*

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

- **RETURN A CLAIM FORM POSTMARKED BY JANUARY 30, 2014** - *If you submit a claim form postmarked by January 30, 2014, you will remain in the Settlement Class and you will be entitled to receive a cash payment from the Settlement Fund.*
- **DO NOTHING BUT STAY IN THE SETTLEMENT** - *By doing nothing you will still be bound by the terms of the settlement agreement and any order the Court issues, but you will NOT receive a cash payment.*
- **EXCLUDE YOURSELF** - *You will receive no benefits, but you will not be giving up your legal claims against the defendants.*
- **OBJECT** - *Write to the Court about why you don't like the settlement. You may also appear at the fairness hearing.*
- **GO TO A HEARING** - *Ask to speak in Court about the fairness of the settlement after first sending a written objection to the Court.*

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**THESE RIGHTS AND OPTIONS AND THE DEADLINES TO EXERCISE THEM ARE EXPLAINED BELOW**

**1. Why did I get this notice?**

Plaintiff, Caroline Defauw (“plaintiff”), filed a class action lawsuit and alleges that defendant National Action Financial Services, Inc. (“NAFS”) violated the Fair Debt Collection Practices Act (“FDCPA” or “the Law”) by sending a collection letter that misrepresented the identity of the owner of the alleged debt that NAFS sought to collect from you. Plaintiff also alleges that Cavalry Portfolio Services, LLC (“Cavalry”) is liable for the acts of NAFS. Defendants deny all of these factual allegations and the Court has not made a finding of liability against Defendants. You received this notice because you have been identified as a person who is a recipient of the Collection Letter during a period beginning on July 30, 2011 and ending August 20, 2012.

**2. What is this lawsuit about?**

In this lawsuit, Plaintiff asserted a claim pursuant to the FDCPA against Defendants NAFS and Cavalry in connection with a collection letter that misrepresented that Cavalry was the owner of the debt, when Cavalry does not own any debts. Plaintiff alleges that Cavalry is liable for the acts of NAFS. Plaintiff alleges that the collection letters violate the FDCPA because they misrepresent the identity of the creditor. Defendants deny they violated any laws and deny liability to Plaintiff and the class. The Court has not made a finding of liability against Defendants.

**3. Why is this a class action?**

In a class action, one or more people called Class Representatives

(in this case, Caroline Defauw), sue on behalf of a group (or a “Class”) of people who have similar claims.

**4. Why is there a settlement?**

In order to avoid the cost, risk and delay of litigation, the parties agreed to settle.

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

(a) all individuals with Indiana addresses (b) to whom defendant NAFS sent a letter in the form represented by Exhibit A to the Complaint<sup>1</sup> (c) which represented that the creditor was “Cavalry Portfolio Services” and (d) which letter was sent on or after July 30, 2011 and on or before August 20, 2012.

You are receiving this notice because the defendants have identified you as a member of the Class. There are approximately 3,376 persons in the Class.

**YOUR BENEFITS UNDER THE SETTLEMENT**

**6. What can I get from the settlement?**

If you submit a claim form by January 30, 2014 you will receive a portion of the \$46,000.00 (minus attorney’s fees, costs of administering the settlement and plaintiff’s recovery) settlement fund established by the defendants.

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<sup>1</sup> Exhibit A can be found at <http://www.edcombs.com> under Class Notices/Current Class Notices

After the deduction of attorney's fees, costs of administering the settlement and plaintiff's recovery, the remaining \$21,012.62 will be divided equally among all Class members who return a claim form. If all of the Class members return claim forms, which is unlikely, each claimant will receive approximately \$6.22. However, Class Counsel expects that between 10%-20% of the Class members will return a claim form, meaning that each claimant will likely receive between \$31.12 and \$62.24.

#### **7. When will I receive these benefits?**

If you return a claim form, you will receive these benefits approximately sixty (60) days after the settlement has been given final approval by the Court, assuming that no party seeks an appeal of the settlement.

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

You must return the claim form attached to the end of this notice by **January 30, 2014** in order to receive a cash payment from the Settlement Fund.

#### **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 defendants a "release." Anyone who does not specifically exclude themselves from the Class will give defendants a release. A release means you can't sue or be part of any other lawsuit against defendants about the claims or issues in this lawsuit.

#### **10. How much will the Class Representative receive?**

The defendants have agreed to pay \$2,000.00 to plaintiff for her alleged statutory and actual damages and for her service as the Class Representative. Her recovery will be deducted from the Settlement Fund. This award is subject to the Court's Approval.

### **EXCLUDING YOURSELF FROM THE SETTLEMENT**

If you don't want to receive the benefits of the settlement, but you want to keep your legal claims against the defendants, then you must take steps to get out. This is called excluding yourself.

#### **11. How do I get out of the settlement?**

To exclude yourself from the settlement, you must submit a Request for Exclusion or Opt Out from *Caroline Defauw v. National Action Financial Services, Inc. and Cavalry Portfolio Services, LLC*, Case No. 3:12 CV 406(PPS)(CAN). For your Request for Exclusion to be effective, you must submit a letter stating words to the effect of: "I WANT TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN DEFAUW v. NATIONAL ACTION FINANCIAL SERVICES, INC. AND CAVALRY PORTFOLIO SERVICES, LLC." Also 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 January 30, 2014**, and sent to the following address:

 EDELMAN, COMBS, LATTURNER & GOODWIN (#26906)  
120 South LaSalle Street, Suite 1800  
Chicago, IL 60603

Be sure to include the name and number of the case.

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

No, you will not receive anything resulting from the settlement of this case, but you will have the right to sue the defendants over

the claims raised in this case on your own in 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. Defendants will be able to assert any defenses they have.

### **THE LAWYERS REPRESENTING YOU**

#### **13. Do I have a lawyer in this case?**

The Court has named the law firm of Edelman, Combs, Latturner & Goodwin, LLC as Class Counsel. You will not be charged for these lawyers. 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 **January 30, 2014**.

#### **14. How will the lawyers be paid?**

Class Counsel, Edelman, Combs, Latturner & Goodwin, LLC will ask the Court for attorney's fees and expenses of no more than \$18,787.38 to be paid by defendants. This will not reduce the recovery to any Class Member.

### **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 the defendants is under the Fair Debt Collection Practices Act. ("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, if proven, and (ii) statutory damages of between \$0 and \$1,000. 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. The Court, in its discretion, may award anything from \$0 up to the maximum amount to a prevailing party. In either an individual or a class action, the person bringing the suit can also recover attorney's fees and the expenses of prosecuting the suit, if it is successful. No actual damages were sought in this case on behalf of the Class.

Given each of the defendant's net worth and in light of the violations alleged, Class Counsel believes this is a fair settlement.

#### **16. What is the Defendants' view of this settlement?**

Defendants believe that the settlement is fair, constituting the complete relief available to the Class under the Law.

### **OBJECTING TO THE SETTLEMENT**


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

#### **17. How do I tell the Court that I do or do not like the Settlement?**

If you are a Class Member, you can comment on the settlement. In order to comment on the settlement or any part of the settlement, you may 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: *Caroline Defauw v. National Action Financial Services, Inc. and Cavalry Portfolio Services, LLC*, Case No. 3:12 CV 406(PPS) (CAN), supporting documents, your name, address, telephone number and your signature. If you submit a written objection, you

may appear at the fairness hearing (explained below in answer to Question no. 18).

You must mail your written objection so that it is postmarked no later than **January 30, 2014** to:

 **United States District Court for the Northern District of Indiana**  
South Bend Division  
ATTN: Clerk of Court  
204 S. Main Street  
South Bend, IN 46601

You must also send a copy of your comment to the following. Be sure to include the name and number of the case on your written comment.

 **EDELMAN, COMBS, LATTURNER & GOODWIN (#26906)**  
120 South LaSalle Street, Suite 1800  
Chicago, IL 60603

### **THE FAIRNESS HEARING**

The Court will hold a hearing to decide whether to approve the settlement. You may attend if you submit a written objection by **January 30, 2014**, but you are not required to do so.

#### **18. Where and when is the fairness hearing?**

The Court will hold a fairness hearing on **February 25, 2014 at 11:00 a.m. (E.S.T.)** in the courtroom of Judge Christopher A. Nuechterlein in the Robert A. Grant Courthouse, 204 S. Main Street, South Bend, IN 46601. 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.

The hearing may be postponed to a later date without notice.

**YOU ARE NOT REQUIRED TO ATTEND THIS HEARING.**

### **GETTING MORE INFORMATION**

#### **19. How do I get more information?**

You can call the firm representing the Class, Edelman, Combs, Latturner & Goodwin, LLC at (312) 739-4200 if you have any questions. Before doing so, please read this full notice carefully. You can also send an email to [info@edcombs.com](mailto:info@edcombs.com) or obtain information through its website at [www.edcombs.com](http://www.edcombs.com).

#### **20. What if I have a new address?**

If this notice was sent to you at your current address, you do not have to do anything more to receive further notices concerning this case. However, if this notice was forwarded to you, or if it was otherwise sent to you at an address that is not current, you should immediately send a letter to:

 **EDELMAN, COMBS, LATTURNER & GOODWIN (#26906)**  
120 S. LaSalle Street, Suite 1800  
Chicago, IL 60603

**DO NOT CONTACT THE COURT REGARDING THIS NOTICE.**

Defauw v. National Action (26906)  
Edelman, Combs, Lattuner & Goodwin, LLC  
120 South LaSalle Street, Suite 1800  
Chicago, IL 60603

Caroline Defauw v. National Action Financial Services, Inc.  
and Cavalry Portfolio Services, LLC,  
Case No. 3:12 CV 406(CAN)

John R. Smith  
Ace, Inc.  
123 Main Street  
Springfield, IL 80099

IMPORTANT: THIS CLAIM FORM MUST BE  
POSTMARKED ON OR BEFORE

**JANUARY 30, 2014**

...AND MAILED TO THE FOLLOWING ADDRESS:

EDELMAN COMBS, LATTURNER & GOODWIN (#26906)  
120 SOUTH LASALLE STREET, SUITE 1800  
CHICAGO, IL 60603

**PROOF OF CLAIM FORM**

RE: DEFAUW V. NATIONAL ACTION FINANCIAL SERVICES, IN. ET AL  
CASE NO. 3:12 CV 406 (PPS)(CAN)

**I WISH TO PARTICIPATE IN THE SETTLEMENT BENEFITS**

PLEASE **LEGIBLY PRINT** THE FOLLOWING INFORMATION:

Name \_\_\_\_\_

Mailing Address \_\_\_\_\_

City, State & Zip \_\_\_\_\_

*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:*

Name on Notice \_\_\_\_\_

Reason \_\_\_\_\_

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

OLD Address \_\_\_\_\_

**YOU MUST SIGN THE CLAIM FORM**

*By signing this form, I certify that I wish to participate in the class settlement of, and receive a share of the settlement of, Caroline Defauw v. National Action Financial Services, Inc. and Cavalry Portfolio Services, LLC, Case No. 3:12 CV 406(CAN) as detailed in this notice.*

\_\_\_\_\_  
Your Signature

\_\_\_\_\_  
Date

**IMPORTANT!:**  
**IT IS YOUR RESPONSIBILITY TO MAINTAIN A CURRENT ADDRESS WITH THE CLASS ADMINISTRATOR.**