

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

This case is *Lisa Marchan v. Berkman, Henoch, Peterson, Peddy & Fencel, P.C.*,
Case No. 12 CV 3810 (LDW)(AKT).

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

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

- **RETURN A CLAIM FORM POSTMARKED BY APRIL 23, 2014** - *If you submit a claim form postmarked by April 23, 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 defendant.*
- **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.*

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

1. Why did I get this notice?

Plaintiff, Lisa Marchan ("plaintiff"), filed a class action lawsuit and alleges that defendant Berkman, Henoch, Peterson, Peddy & Fencel, P.C., ("defendant" or "Berkman") violated the Fair Debt Collection Practices Act ("FDCPA" or "the Law") by sending a collection letter that did not comply with 15 U.S.C. §1692g. Defendant denies liability to Plaintiff and the Class. The Court has not made a finding of liability against Defendant. You received this notice because you have been identified as a person who is a recipient of the Collection Letter at issue during a period beginning on August 1, 2011 and ending August 21, 2012.

2. What is this lawsuit about?

In this lawsuit, Plaintiff asserted a claim pursuant to the FDCPA against Defendant Berkman in connection with a collection letter which did not comply with 15 U.S.C. §1692g. Defendant denies all of these factual allegations and the Court has not made a finding of liability against Defendant.

3. Why is this a class action?

In a class action, one or more people called Class Representatives (in this case, Lisa Marchan), 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?

The class consists of (a) all natural persons with New York addresses (b) to whom defendant sent a notice for the purpose of complying with §1692g (c) on or after a date one year prior to the filing of this action (August 1, 2011) and on or before a date 20 days after the filing of this action (August 21, 2012).

You are receiving this notice because the defendant has identified you as a member of the Class. There are approximately 1,900 persons in the Class.

YOUR BENEFITS UNDER THE SETTLEMENT

6. What can I get from the settlement?

If you submit a claim form by **April 23, 2014** you will receive a portion of the \$38,000.00 (minus attorney's fees, costs of administering the settlement and plaintiff's recovery) class settlement fund established by the defendants.

After the deduction of attorney's fees, costs of administering the settlement and plaintiff's recovery, the remaining \$20,257.80 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 \$10.62. 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 \$53.31 and \$106.62. In the event that there are less than 20 class members who submit a timely claim form, the maximum amount each Class Member will receive will be \$1,000.00.

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 **April 23, 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 defendant a "release." Anyone who does not specifically exclude themselves from the Class will give defendant a release. A release means you can't sue or be part of any other lawsuit against defendant about the claims or issues in this lawsuit.

10. How much will the Class Representative receive?

The defendant has agreed to pay \$2,000.00 to plaintiff for her statutory and actual damages and for her service as the Class Representative. Her recovery will be deducted from the Class 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 defendant, 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 *Lisa Marchan v. Berkman, Henoch, Peterson, Peddy & Fencel, P.C.*, Case No. 12 CV 3810 (LDW)(AKT). 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 MARCHAN v. BERKMAN, HENOCH, PETERSON, PEDDY & FENCHEL, P.C." 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 April 23, 2014**, and sent to the following address:

 Cathleen M. Combs
Tiffany N. Hardy (#26954)
EDELMAN, COMBS, LATTURNER AND GOODWIN, LLC
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 defendant 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.

THE LAWYERS REPRESENTING YOU

13. Do I have a lawyer in this case?

The Court has named the law firms of Edelman, Combs, Latturner & Goodwin, LLC and Kleinman, 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 **April 23, 2014**.

14. How will the lawyers be paid?

Class Counsel, Edelman, Combs, Latturner & Goodwin, LLC and Kleinman, LLC will ask the Court for attorney's fees and expenses of no more than \$13,185.20 to be paid by defendant. 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 defendant 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 the defendant's net worth and in light of the violations alleged, Class Counsel believes this is a fair settlement.

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

Defendant believes 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: *Marchan v. Berkman, Henoch, Peterson, Peddy & Fencel, P.C.*, Case No. 12 CV 3810 (LDW)(AKT), 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 **June 3, 2014** to:

☒ United States District Court for the Eastern District of New York
ATTN: Clerk of Court
100 Federal Plaza
Central Islip, NY 11722

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.

☒ Cathleen M. Combs
Tiffany N. Hardy (#26954)
EDELMAN, COMBS, LATTURNER AND GOODWIN, LLC
120 South LaSalle Street, Suite 1800
Chicago, IL 60603

☒ Thomas A. Leghorn
WILSON ELSER MOSKOWITZ EDELMAN & DICKLER, LLP
150 E. 42nd Street
New York, NY 10017

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 **June 3, 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 **June 17, 2014 at 11:00 a.m.** in the courtroom of Judge Leonard D. Wexler, in the Long Island Federal Courthouse, 944 Federal Plaza, New York, New

York 11722. 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 firms representing the Class, Edelman, Combs, Latturner & Goodwin, LLC at (312) 739-4200, or Kleinman, LLC, at (516) 522-2621 if you have any questions. Before doing so, please read this full notice carefully. You can also send an email to info@edcombs.com or obtain information through its website at 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:

☒ Cathleen M. Combs
Tiffany N. Hardy (#26954)
EDELMAN, COMBS, LATTURNER & GOODWIN, LLC
120 S. LaSalle St., Suite 1800
Chicago, Illinois 60603

PLEASE DO NOT CONTACT THE COURT REGARDING THIS NOTICE.

Marchan V. Berkman (26954)
Edelman, Combs, Lattuner & Goodwin, LLC
120 South LaSalle Street, Suite 1800
Chicago, IL 60603

MARCHAN V. BERKMAN, HENOCH, PEDDY & FENCHEL, P.C.,
CASE NO. 12-CV-3810(LDW)(AKT)

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

IMPORTANT: THIS CLAIM FORM MUST BE
POSTMARKED ON OR BEFORE

APRIL 23, 2014

...AND MAILED TO THE FOLLOWING ADDRESS:

CATHLEEN M. COMBS (#26954)
TIFFANY N. HARDY
EDELMAN COMBS, LATTURNER & GOODWIN, LLC
120 S. LASALLE ST., SUITE 1800
CHICAGO, IL 60603

PROOF OF CLAIM FORM

RE: MARCHAN V. BERKMAN, HENOCH, PEDDY & FENCHEL, P.C.,
CASE NO. 12-CV-3810(LDW)(AKT)

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, Marchan v. Berkman, Henoch, Peterson, Peddy & Fencel, P.C., Case No. 12 CV 3810 (LDW) (AKT), as detailed in this notice.

Your Signature

Date

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