

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT

SHERRI BARTH, FREDDIE MORA,
JULIAN OCHOA and DESIREE MOYA,
on behalf of themselves and others similarly situated,
Plaintiffs,

v.

D-202-CV-2015-08162

COURTESY LOANS OF NEW MEXICO, LLC,
Defendant.

NOTICE OF CLASS ACTION SETTLEMENT

I. WHAT THE LAWSUIT IS ABOUT

You have not been sued. This notice tells you about a lawsuit which affects your rights.

Sherri Barth and others brought a class action lawsuit against Courtesy Loans of New Mexico. Ms. Barth and the other plaintiffs sued Courtesy Loans for filing lawsuits against its customers, where it used store clerks (non-lawyers) to prepare and to sign court documents and to appear in court. Ms. Barth claimed that Courtesy Loans violated New Mexico law, that its collection lawsuits were void, that its judgments were unenforceable, and that anyone who was garnished or paid money after the lawsuit was filed should receive back all the money paid.

The Court issued several rulings in the case, including:

- 1) Certifying a Class Action. That Order designated Ms. Barth as the representative of all customers sued by Courtesy Loans, beginning October 26, 2011, “where a non-lawyer employee of Courtesy Loans signed the complaint or any other pleading, or where a non-lawyer employee appeared in court to litigate the case for the company.”
- 2) Certifying a subclass to seek money damages. On August 11, 2020 the Court entered an order certifying that Mr. Mora, Mr. Ochoa and Ms. Moya were suitable representatives of the class and also represented a subclass (a smaller group of customers) “from whom Courtesy Loans collected money pursuant to the lawsuits it filed, principally by garnishment of their wages.” This order allowed those three persons to pursue recovery of the money collected by Courtesy Loans.
- 3) On May 6, 2019 the Court granted “partial summary judgment” in favor of Ms. Barth, against Courtesy Loans. It held that Courtesy Loans had violated the New Mexico Unfair Practices Act and the New Mexico Unauthorized Practice of Law statute. The Court signed an order enjoining (prohibiting) Courtesy Loans from allowing non-lawyers to sign court papers or otherwise to engage in the unauthorized practice of law.

On May 2, 2022 this Court held a trial in this matter. Following trial, the Court entered its Findings of Fact and Conclusions of Law on July 14, 2022 and its Final Judgment August 12, 2022. The Court held that the plaintiffs had prevailed on their claim that Courtesy Loans engaged in the unauthorized practice of law, and it awarded restitution of \$569,971.11 to the 1,254 subclass members who had paid money to Courtesy Loans after they were sued. The Court also awarded statutory damages of \$3,000 per person for willful violation of the law. The Court awarded additional relief, including a ruling that Courtesy Loans was not entitled to a setoff for the amount of the loans.

After trial the parties filed various motions. Courtesy Loans filed a Notice of Appeal. Plaintiffs engaged in

collection activities, including the appointment of a receiver and obtaining writs of execution and garnishment. The parties then engaged in settlement discussions which resulted in the settlement of the case on the terms contained in this notice.

II. WHY PLAINTIFFS SETTLED THE CASE

In reaching settlement, Plaintiffs carefully weighed numerous factors to evaluate the risks and benefits of continued litigation. These factors included the following:

- A. The inherent uncertainty of any litigation;
- B. The defenses presented by Defendant, including its appeal on the merits.
- C. Courtesy Loans's limited resources to pay a substantial judgment. Courtesy Loans's balance sheet showed declining value. It also has closed most of its offices and ceased issuing loans in New Mexico.
- D. The absence of insurance coverage.
- E. The high likelihood of substantial delay. Even though plaintiffs prevailed against Courtesy Loans, there would be a second lawsuit, filed in Oklahoma, against the owners of Courtesy Loans' parent companies, pursuant to New Mexico's Uniform Voidable Transactions Act, NMSA §56-10-14 *et seq.*, to determine if they were liable personally for the judgment. It is possible that an Oklahoma Court could have ruled in favor of those defendants, greatly affecting plaintiffs' ability to collect their judgment from Courtesy Loans of New Mexico, LLC.

Plaintiffs considered information exchanged formally and informally between the parties, and obtained through a post-judgment corporate deposition. This information included financial records concerning Defendant's ability to pay. Based on this information, Plaintiffs concluded that the proposed Settlement Agreement is in the best interests of Class Members. Plaintiffs believe that had the case gone forward, there was a significant chance that Class Members would obtain a much smaller recovery.

III. TERMS OF THE SETTLEMENT

The total Settlement Fund is \$1,782,548.00. There are other benefits to you and the members of the subclass. Plaintiffs have moved the Court to distribute the Settlement Fund as follows:

- 1) You and each other member of the subclass will receive an amount equal to the money you paid to Courtesy Loans after you were sued. This component of the settlement means that \$569,971.11 will be paid to the 1,254 subclass members.
- 2) In addition, you and each other member of the subclass will receive equal amounts as statutory damages for Courtesy Loans' unauthorized practice of law. This component of the settlement means that approximately \$770,410 will be paid to the 1,254 subclass members, which comes to \$614.36 apiece.
- 3) As a subclass member, you will receive BOTH amounts. The total portion of the settlement fund payable to subclass members is 75% of the settlement amount.**
- 4) Courtesy Loans is writing off the balance of your loan and cannot sue you for the unpaid loan.
- 5) Courtesy Loans will delete the trade line from your credit report, so it will no longer appear that you failed to pay your loan.
- 6) Courtesy Loans will file satisfactions of judgment in the court in which your judgment was entered.
- 7) Ms. Barth would receive a service award of \$10,000 for her work and contributions to the case over the seven years in which she was involved.
- 8) Mr. Mora, Mr. Ochoa and Ms. Moya each would receive a service award of \$5,000 for their work and contributions to the case over the 3-1/2 years in which they were involved.
- 9) The attorney for the plaintiffs, Richard Feferman, would be awarded fees of 20% of the settlement amount (\$356,509) plus gross receipts tax (\$27,629) and out-of-pocket costs (estimated at \$15,000) for his work on the case.
- 10) The settlement would be administered by American Legal Claim Services, LLC, who are responsible for locating subclass members and issuing checks to them, at an estimated additional cost of \$19,000.

IV. WHY WE ARE SENDING YOU THIS NOTICE: YOUR OPTIONS

You are a member of the class and the subclass, according to the records of Courtesy Loans. You have the choice of (1) remaining in the class and obtaining the benefits of the settlement OR (2) objecting to the settlement.

1. **If you DO want to be part of this class action, YOU DO NOT HAVE TO DO ANYTHING except update your address if you have moved.** If you remain in the class, you do NOT have to appear at any Court hearing. You will NOT need to pay the plaintiffs' attorney any money out of your pocket.

2. **Objecting to the Settlement.** If you object to the settlement, you must file your written objection with the Clerk of Court, 2nd Judicial District Court, PO Box 488, Albuquerque, NM 87103 and also mail a copy of it to Class Counsel, Richard Feferman, Feferman, Warren & Mattison, 300 Central Ave SW, Suite 2000 West, Albuquerque, NM 87102. Your objection must contain the following: (a) your name, address, and daytime telephone number, and the name, address, and phone number of your lawyer, if you have retained one; (b) an identification of this case (shown at the top of this notice); (c) a clear and concise statement of your objections to the Settlement; (d) a statement that you have not excluded yourself from the Class; and (e) your signature. Your objection must be postmarked no later than February 4, 2023. If your objection is not postmarked and submitted to the Court by February 4, 2023, it will not be considered by the Court. If you do object, you also MUST appear at the Approval Hearing (see below). You may appear at the Approval Hearing on your own or with the lawyer of your choice that you hire.

V. APPROVAL ("FAIRNESS") HEARING

An Approval Hearing, called the "Fairness Hearing," will be held by Zoom on February 28, 2023, before the Honorable Elaine Lujan, 2nd Judicial District Court, 400 Lomas Blvd., NW, Albuquerque, NM 87102. The purpose of hearing is to determine whether the settlement is fair, adequate and reasonable and whether the settlement agreement will be approved, including the awards of attorney fees, costs, and service award. The Approval Hearing may be postponed or adjourned by the Court, without further notice to the Class. **If you choose to accept the money from the Settlement Agreement, you do NOT have to appear at the Fairness Hearing.**

VI. OTHER MATTERS

If this notice was forwarded by the Postal Service, or if it was sent to you at an address which is not current, you should immediately send a letter to the lawyer named below, stating your past and current addresses. If you move from this address, you should send notice of your new address again. If the person to whom this letter was sent has died, please send a letter to the lawyer, explaining who is entitled to the payment, if any, and include any supporting documentation. The lawyer representing Plaintiffs and the subclass is Richard Feferman, at Feferman, Warren & Mattison, 300 Central Ave SW, Suite 2000 West, Albuquerque, NM 87102, (505) 243-7773.

This description of the case is general and does not cover all of the issues and proceedings thus far. In order to see the complete file, you should contact the office of the Clerk of Court. If you have questions you should contact attorney Feferman. **DO NOT CONTACT THE CLERK OF THE COURT OR THE JUDGE.** They are not permitted to answer your questions.