

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

GUY BLESSINGER,¹
AUDRA NISKI,
NELSON FERREIRA,
individually and on behalf
of all others similarly-situated,

Plaintiffs,

v.

CASE NO.: 8:22-cv-01029-TPB-SPF

WELLS FARGO & COMPANY,

Defendant.

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND HEARING

A federal court authorized this Notice. This is not a solicitation from a lawyer.

This **Notice of Proposed Class Action Settlement and Hearing** provides important information regarding your right to participate in or to opt out of a proposed settlement in a putative class action lawsuit (referred to in this notice as the “Settlement”). Named Plaintiffs, Audra Niski and Nelson Ferreira (“Plaintiffs”), filed a lawsuit against Wells Fargo & Company (“Defendant”) in the U.S. District Court, Middle District of Florida, Tampa Division. Plaintiffs and Defendant are referred to in this notice together as the “Parties.”

Plaintiffs allege in their lawsuit that Defendant provided them and other putative class members with a COBRA Notice that violated the notice requirements of COBRA. Defendant denies the allegations and maintains that the COBRA Notice complied with all applicable laws, but Defendant has agreed to the settlement to avoid the uncertainties and expenses of continuing the case. The judge has not made any determination about who is right or wrong in the case. A summary of the claims asserted in the lawsuit and the proposed Settlement follows.

- The notice at issue is referred to as a “COBRA Notice,” and the continuation of health insurance coverage after separation of employment is called “COBRA continuation coverage,” after the Consolidated Omnibus Budget Reconciliation Act of 1985. The COBRA Notice is designed to provide former employees who were covered under employer sponsored group health care plans with information and details regarding their right to continue their healthcare coverage and the terms and conditions of that COBRA continuation coverage. 29 U.S.C. § 1166(a) (2), (a)(4), (c).

- The lawsuit generally alleges Defendant provided Plaintiffs and other putative class members with a deficient COBRA Notice. More specifically, Plaintiffs asserted that Defendant’s COBRA Notice did not adequately inform them how to exercise their right to elect COBRA continuation coverage because, in violation of 29 C.F.R. § 2590.606–4(b)(4) *et seq.*, the COBRA Notice: (i) included inaccurate and misleading threats of

¹ The Parties have agreed to arbitrate Named Plaintiff Guy Blessinger’s claims. Thus, he is neither a proposed Class Representative nor a Settlement Class Member.

criminal penalties and fines; and (ii) was not written in a manner calculated to be understood by the average plan participant. As a result of the alleged violations in the Complaint, Plaintiffs sought statutory penalties, injunctive relief, attorneys’ fees, costs and expenses on behalf of himself and all others similarly-situated.

- Defendant denies that its COBRA Notice was deficient in any manner and denies that it has any liability to Plaintiffs or the putative class. Rather, Defendant has asserted that its COBRA Notice complied with any and all relevant laws, including COBRA and the Employee Retirement Income Security Act. Furthermore, had the Parties proceeded in the litigation, Defendant further denies that the matter would have proceeded on a class action basis.

- At this point in the case, the presiding judge has not made any determination about who is right or wrong. Rather, instead of proceeding with potentially years of litigation with uncertain outcomes, the parties have agreed to resolve the lawsuit through a Court-supervised settlement to avoid further cost and uncertainty.

- The Parties seek to settle this dispute on behalf of Plaintiffs and a “Settlement Class,” which the Parties have agreed to define as follows: “All participants and beneficiaries in the Wells Fargo Health Plan who were sent the COBRA Notice by or on behalf of Defendant at any time during the Class Period [*i.e.*, from May 3, 2018 through December 23, 2021, subject to shorter applicable state limitations periods for a claim for statutory penalties, as best determined by the Parties’ counsel] who did not elect COBRA Coverage, excluding individuals who entered into arbitration agreements with Defendant.”

- Membership in the Settlement Class will be determined based upon Defendant’s records reflecting who received the specific COBRA Notice at issue during the Class Period. It is estimated that the Settlement Class is comprised of 50,000 potential members.

- You received notice of this Settlement by email or U.S. Mail, which directed you to this website because Defendant’s records indicate that you are a “Settlement Class Member” and eligible to receive payment from this proposed class action settlement.

- Your rights and options—and the deadlines to exercise them—are explained in this Notice. Here is a brief summary of your rights and options.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
File a Claim by March 3, 2024	If you timely file a claim and the Court approves this Settlement, you will receive a settlement payment of up to \$20.00. As a member of the Settlement Class, you will release Defendant and others (the “Released Parties” from any potential liability regarding the COBRA Notice, including but not limited to the issues raised in this lawsuit. You can file a claim either online on www.blessingersettlement.com or by mailing or emailing a claim form by March 3, 2024, via U.S. Mail or email. More information regarding how to submit a claim is provided below.
Do Nothing	If you choose to do nothing (including deciding to not file a claim), you will not receive a check. However, you will still release Defendant and the Released Parties from any potential liability regarding the COBRA Notice, including but not limited to the issues raised in this lawsuit.
Ask to be Excluded by March 3, 2024	If you do not want to be included in the case and the Settlement, you must take action to exclude yourself. This is called “opting out.” To opt out, you must send a written opt-out request to the Settlement Administrator postmarked by March 3, 2024, either via U.S. Mail to Blessinger v Wells Fargo, c/o Settlement Administrator, P.O. Box 23489, Jacksonville, FL 32241 or via email to info@blessingersettlement.com . Your written opt-out request must (i) state the case name and number (<i>Blessinger, et</i>

	<i>al. v. Wells Fargo & Company</i> , 8:22-cv-01029-TPB-SPF); (ii) state your name, address, telephone number, and email address; and (iii) include your personal signature. If you elect to opt out, you may pursue your own individual action against Defendant for the claims raised in this case if you choose to do so.
Object by March 3, 2024	If you do not like the Settlement, or any of its specific terms, you may “object.” To object, you must file a written objection with the Court and send a copy of your objection to the Settlement Administrator postmarked by March 3, 2024, either via U.S. Mail to Blessinger v Wells Fargo, c/o Settlement Administrator, P.O. Box 23489, Jacksonville, FL 32241 or via email to info@blessingersettlement.com. Your written objection must (i) state the case name and number; (ii) provide the specific grounds for your objection; (iii) state whether your objection pertains to just you individually, or all or some of the proposed Settlement Class; (iv) state your name, address, telephone number, and email address; (v) state whether you intend to appear and speak at the Final Approval Hearing, either with or without your own counsel; and (vi) include your personal signature (and your counsel’s signature, if you have your own representation). You may not file an objection if you opt out of the settlement.
Go to a Hearing on April 15, 2024	If you wish to be heard, you may attend the Final Approval Hearing and ask to speak in Court about the fairness of the Settlement. You are not required to attend the hearing. If you opt out, you may not present your opinions regarding the Settlement at the Final Approval Hearing.

The Court still has to decide whether to approve this settlement, which may take some time, as explained below.

Basic Information

1. Why did I receive this notice?

You received a copy of this notice by email because Defendant’s records indicate you may be a member of the Settlement Class, which is defined above. The Notice of Settlement you received directed you to the Settlement Administrator’s website, which provides additional information regarding this Settlement, including this more detailed Notice of Proposed Class Action Settlement and Hearing. As a Settlement Class Member, you have a right to know about the proposed settlement of this case as a class action and about your options to participate as a Settlement Class Member, your ability to object to the Settlement terms, or to opt out of the Settlement, before the Court decides whether to grant final approval of the Settlement. If the Court approves the Settlement, and after all objections or appeals relating to that settlement are resolved, the payment provided for by the Settlement will be available to all Settlement Class Members who submit a timely valid claim and have not opted out.

This Notice explains the lawsuit, the proposed Settlement, your legal rights, the Settlement payment and who will be eligible to receive a payment from the Settlement Account, and the basis upon which payments will be made. A copy of the Class Action Settlement Agreement and Release (referred to in this Notice as the “Agreement”) is available to Settlement Class Members on this website.

2. What is the lawsuit about?

Plaintiffs filed this putative class action against Defendant for allegedly providing a defective COBRA notice to them and other putative class members. As set forth in the Class Action Complaint, Plaintiffs were participants in the Wells Fargo Health Plan (the “Plan”). Defendant provided a COBRA Notice to Plaintiffs, which they claim was deficient. More specifically, Plaintiffs allege that the COBRA Notice did not adequately inform them of how

to exercise their rights to elect COBRA continuation coverage because, in violation of 29 C.F.R. § 2590.606–4(b)(4) et seq., the COBRA Notice: (i) included inaccurate and misleading threats of criminal penalties and fines; and (ii) was not written in a manner calculated to be understood by the average plan participant. As a result of the alleged violations in the Complaint, Plaintiffs sought statutory penalties, injunctive relief, attorneys’ fees, costs and expenses on behalf of himself and all others similarly-situated.

Defendant disputes Plaintiffs’ allegations and denies all liability to Plaintiffs and their putative class. Defendant maintains that the COBRA Notice at issue complied with any and all applicable laws. In the lawsuit, Defendant denied Plaintiffs’ allegations and asserted a number of defenses. Further, Defendant has asserted that Plaintiffs’ claims are not appropriate for class action treatment in the absence of a settlement.

Although the Court has authorized this Notice of Proposed Class Action Settlement and Hearing, the Court has not determined or ruled upon the merits of the claims or defenses asserted by either side in the lawsuit. The Court has not found Defendant violated the law in any way. The Court has not found that the Plaintiff would prevail in this case. The Court has not made any determination that Plaintiff will recover any damages in this litigation.

3. Why is this case pled as a class action?

Class actions are lawsuits in which the claims and rights of many people are decided in a single proceeding. In a class action, as here, the Named Plaintiffs, referred to hereinafter as Class Representatives (which is what they are called once a class is certified), seek to assert claims on behalf of themselves and all members of a putative class who received the same allegedly deficient COBRA Notice. In a class action, individuals with similar claims are generally treated alike. The Court supervises the prosecution of the class claims by Counsel for the Settlement Class (“Class Counsel”) to ensure that all members of the Settlement Class are adequately and fairly represented. Settlement Class Members are not individually responsible for the costs or fees of Class Counsel, which must be approved by the Court, and which will be paid out of the Settlement Account.

4. Why is there a settlement?

The Court has not decided the merits of this case in favor of the Class Representatives or in favor of Defendant. Instead, Class Counsel investigated the facts and applicable law regarding the Class Representatives’ claims and Defendant’s defenses. The parties engaged in lengthy and arm’s-length negotiations to reach this settlement. The Class Representatives and Class Counsel believe that the proposed settlement is fair, reasonable, and adequate and in the best interests of the Settlement Class Members.

Both sides agree that, by settling, Defendant is not admitting any liability or that Defendant did anything wrong. Additionally, both sides want to avoid the uncertainties and expense of further litigation.

Who Is Included In The Settlement

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

You are included in the Settlement if you fit the definition of “Settlement Class” above. If you received a notice of settlement by email or U.S. Mail, Defendant’s records indicate you are a member of the Settlement Class. If you are not certain as to whether you are or should be a member of the Settlement Class, you may contact the Settlement Administrator to find out (see contact information in section 21 below). In all cases, the question of Settlement Class membership will be determined based on Defendant’s records.

The Settlement Payment—What You May Receive

6. What does the Settlement provide?

If you are a member of the Settlement Class, you are eligible to receive a payment under the Settlement. Defendant has agreed to pay a total of \$1,000,000.00 (the “Gross Settlement”) into a Settlement Account. From that total will be deducted amounts for (1) an award of Class Counsel’s attorneys’ fees and reasonable litigation costs; and (2) court-approved costs by the Settlement Administrator. These amounts are described further below. The amount remaining after deducting these amounts is called the “Net Settlement Proceeds.”

Every Settlement Class Member who timely files a valid claim will receive a check for up to \$20.00. If, depending on the number of claims, the amount of the Net Settlement Proceeds is not enough to pay \$20.00 to all Settlement Class Members who submitted a timely valid claim, then each Settlement Class Member who submitted a claim will receive a pro rata portion of the Net Settlement Proceeds.

Class Counsel will ask the Court to award them fees in the amount of 30% of the Gross Settlement, which is equivalent to \$300,000.00, plus reasonable litigation costs totaling \$10,772.94. The cost of the Settlement Administrator (which are estimated to be \$61,000.00) will also be paid from the Gross Settlement.

Within fourteen (14) days of the Effective Date, and upon receipt of a properly executed Form W-9 for the Settlement Account, Defendant shall cause to be deposited the Gross Settlement amount into the Settlement Account, which sum may be paid in one or more deposits to the Settlement Account, which shall be used by the Settlement Administrator to pay Settlement Class Members and to pay any amounts approved by the Court for Class Counsel’s attorneys’ fees and costs, and any expenses of settlement administration. This Gross Settlement amount is the maximum payment obligation of Defendant and all other Released Parties to settle this action, and it is inclusive of all settlement administration costs.

The Settlement Administrator shall send checks to Settlement Class Members with Settlement Claims by first-class U.S. Mail within fourteen (14) days after the Settlement Account is funded.

If there is any amount of the Net Settlement Proceeds leftover after subtracting the total value of the checks that the Settlement Administrator mails out for Settlement Claims, such leftover amount will revert as directed by Defendant. The Settlement Administrator shall pay such leftover amount out of the Settlement Account, as Defendant directs, within fourteen (14) days after the date when the Settlement Administrator mails checks for Settlement Claims.

Each Settlement Class Member who timely files a valid claim shall have sixty (60) days from the date which appears on the face of the check issued to them to negotiate their settlement check. If any funds remain in the Settlement Account after each Settlement Class Member’s 60-day deadline for negotiating their settlement checks has passed, the Settlement Administrator shall retain such funds in the Settlement Account for a period of ten (10) days to allow for the processing and payment of any checks that may still be in the bank’s check clearing process. Thereafter, the Settlement Administrator shall close out the Settlement Account by issuing a check for any remaining balance as a cy pres award to be paid to Bay Area Legal Services (or any other cy pres recipient that the Court may approve). The Parties have selected Bay Area Legal Services, a 501(c)(3) non-profit legal aid organization, and will ask the Court to approve it as the cy pres recipient.

7. How do I receive a payment from the Settlement?

To receive a check with your settlement payment, you need to submit a claim by no later than March 3, 2024. You can do so by submitting a claim form either (1) through this website, or (2) by emailing a completed claim form to info@blessingersettlement.com, or (3) mailing a completed claim form by U.S. Mail to the following address:

Blessinger v. Wells Fargo
c/o Settlement Administrator
P.O. Box 23489
Jacksonville, FL 32241

All claim forms returned by email or U.S. Mail must be sent or postmarked no later than March 3, 2024. If you decide to submit a claim via email or U.S. Mail, you can find a copy of a claim form as a PDF document on this website.

As a Settlement Class Member, you will be bound by the terms of the Agreement and any judgment arising from the Settlement regardless of whether you return a claim form, unless you specifically asked to be excluded (opt-out) in the manner required by the Settlement. If the Court approves the Settlement at or after the Final Approval Hearing and you have not opted out of the Settlement and you have not submitted a timely claim form, you will not receive a check, but you are still bound by the Settlement.

8. When will I receive my payment?

The Court will hold the Final Approval Hearing on April 15, 2024 at 10:00 a.m. at the United States District Court for the Middle District of Florida, Tampa Division, U.S. Federal Building and Courthouse, 801 N Florida Ave, Tampa, FL 33602, in Courtroom 11 B. The Court may postpone the hearing or decide to conduct the hearing via telephone or by Zoom without further notice, so you should visit the Settlement Website for updates prior to the hearing date set forth above.

If the Court approves the Settlement, there may be appeals or objections that must be resolved before the Settlement will become effective. Settlement payments to members of the Settlement Class will be made only if the Settlement is finally approved by the Court and only after all appeals or objections are resolved. This may take some time, so please be patient. You may check on the status of this approval process by visiting this website.

9. What am I giving up to receive a payment or stay in the class?

Upon the Court's final approval of the Settlement, all Settlement Class Members who do not exclude themselves (as well as their attorneys, agents, spouses, children, beneficiaries, heirs, assigns and dependents) will fully release the following entities, referred to here and in the Agreement as "Released Parties" from any and all claims that have been or could have been brought in this lawsuit with respect to the COBRA Notice sent to each Settlement Class Member at issue in Plaintiffs' Class Action Complaint: (i) Defendant; (ii) Defendant's current and former third party COBRA administrators (including, but not limited to, Willis Tower Watson); (iii) Defendant's third party administrators and claims administrators; (iv) any entity that was involved in any way with the drafting or delivery of the COBRA Notice as defined herein; (v) Defendant's benefit plans, sponsors and fiduciaries; and (vi) for each of the entities identified in subparts (i) through (v), their affiliates, parent companies, subsidiaries, predecessors, successors, corporate family members, officers, directors, partners, employees, attorneys, agents, insurers, shareholders, representatives, trustees, principals, and assigns.

10. Do I have to participate in the Settlement?

No. You may choose to be excluded from the Settlement (in other words “opt out”) and you will not be bound by the Agreement or any judgment or other final disposition of the lawsuit. If you opt out, you will retain any individual claims you may have against Defendant, and Defendant will retain any defenses it has to your claims. To request exclusion, you must state in writing your desire to opt out and to be excluded from the Settlement Class, and see page 3-4 above for requirements for your opt-out request. **Your opt-out request must be sent by first class U.S. Mail or Email, postmarked or sent on or before March 3, 2024. You must send your written opt out request to:**

Blessinger v. Wells Fargo
c/o Settlement Administrator
P.O. Box 23489
Jacksonville, FL 32241

Or by Email: info@blessingersettlement.com

If your written opt-out request is not sent or postmarked on or before March 3, 2024, your request for exclusion will be invalid, and you will be bound by the terms of the Settlement approved by the Court, including without limitation, the terms of the Agreement and the judgment ultimately rendered in the case, and you will be barred from bringing any claims against Defendant which arise out of or relate in any way to the claims described in Section 9 above.

11. If I don’t exclude myself, can I sue Defendant for the same thing later?

No. If you do not opt out of the Settlement, you will give up any right to sue Defendant or any other Released Party as described in Section 9 above.

12. If I exclude myself, will I receive any payment from this Settlement?

No. If you opt out and thereby exclude yourself, you are not part of the Settlement and will get no money from it.

Objecting to the Settlement

13. How do I tell the Court that I don’t like the settlement?

If you decide not to opt out of the Settlement, you may still object to any aspect of the proposed Settlement by filing and serving a written objection. Your written objection must include the information listed on page 3-4 above. You may not object through the Settlement Website.

You must file any objection with the Clerk of the Court at the address below within sixty (60) days of the postmarked date on the Notice of Settlement that you received by email or U.S. Mail:

United States District Court for the Middle District of Florida, Tampa Division
U.S. Federal Building and Courthouse
801 N Florida Ave, Tampa, FL 33602

In any mailing to the Court, be sure to include the case number (8:22-cv-01029-TPB-SPF), and the case name (*Blessinger, et al. v. Wells Fargo & Company*).

You must also send your objection by first class U.S. Mail or Email, postmarked or sent on or before March

3, 2024. You must send your written objection to:

Blessinger v. Wells Fargo
c/o Settlement Administrator
P.O. Box 23489
Jacksonville, FL 32241

Or by Email: info@blessingersettlement.com

Any member of the Settlement Class who does not file and serve an objection in the time and manner described above will not be permitted to raise an objection later.

14. Is there a difference between objecting and opting out?

Yes. By objecting, you are simply telling the Court that you don't like something about the Settlement and would like the Settlement to be changed, but you are agreeing to be bound by the Settlement as approved by the Court. You may object only if you stay in the Settlement Class. If you elect to opt out of the Settlement Class, you are telling the Court that you do not want to be part of the Settlement. If you opt out and thereby exclude yourself from the Settlement, you will have no basis to object because the lawsuit and Settlement no longer affect you or any potential claims you may have.

15. Where and when will the Court decide whether to approve the settlement?

The Court will hold a Final Approval Hearing on April 15, 2024 at 10:00 a.m. at the United States District Court for the Middle District of Florida, Tampa Division, U.S. Federal Building and Courthouse, 801 N Florida Ave, Tampa, FL 33602, in Courtroom 11 B. The Court may postpone the hearing or decide to conduct the hearing via telephone or by Zoom without further notice, so you should visit the Settlement Website for updates prior to the hearing date set forth above.

The purpose of the hearing is to determine the fairness, reasonableness, and adequacy of the terms of the Settlement; whether the Settlement Class is adequately represented by the Class Representatives and Class Counsel; and whether an order and final judgment should be entered approving the proposed Settlement. The Court also will consider Class Counsel's application for an award of attorneys' fees and expenses.

You will be represented at the Final Approval Hearing by Class Counsel, unless you choose to enter an appearance in person or through your own attorney. The appearance of your own attorney is not necessary to participate in the Final Approval Hearing. Again, should you choose to engage your own attorney, it will be at your own expense.

16. Do I have to come to the Final Approval Hearing?

No. Class Counsel will represent the Settlement Class Members at the Final Approval Hearing, but you are welcome to attend the hearing at your own expense. If you file an objection, you do not have to come to Court to talk about it. As long as you filed and mailed your written objection on time, the Court will consider it. You may also pay your own attorney to attend if you wish.

17. May I speak at the Final Approval Hearing?

You may ask the Court for permission to speak at the Final Approval Hearing. If you intend to attend and speak at the Final Approval Hearing, you must state this in your objection.

18. Will I have a lawyer in this case?

The Court has appointed Audra Niski and Nelson Ferreira as the Class Representatives. The Court has also appointed Luis A. Cabassa and Brandon J. Hill of Wenzel Fenton Cabassa, P.A., and Marc Edelman of Morgan & Morgan, P.A., as Class Counsel. Class Counsel's contact information is as follows:

Luis A. Cabassa, Esq.
Brandon J. Hill, Esq.
WENZEL FENTON CABASSA, P.A.
1110 North Florida Ave., Suite 300
Tampa, FL 33602
(813) 224-0431
lcabassa@wfclaw.com
bhill@wfclaw.com

and

Marc R. Edelman
MORGAN & MORGAN, P.A.
201 N. Franklin Street, Suite 700
Tampa, FL 33602
Telephone: 813-577-4722
Fax: 813-257-0572
MEdelman@forthepeople.com

Class Counsel represent the interests of all of the Settlement Class Members. You may hire your own attorney to advise you regarding this matter and the proposed settlement if you choose, but you are not required to do so and if you hire your own attorney, you will be responsible for paying that attorney's fees and costs.

19. How will Class Counsel be paid?

Class Counsel will apply to the Court for an award of attorneys' fees, in an amount not to exceed thirty-percent (30%) of the gross Settlement Account, which is equivalent to \$300,000.00, plus litigation costs totaling \$10,772.94. The Court may award less than the amounts Class Counsel are requesting.

In addition, costs of administration incurred by the Settlement Administrator (estimated at \$61,000.00) will also be paid from the Settlement Account. The amounts approved by the Court for these fees and costs will be paid directly from the Settlement Account, and not by you nor the other Settlement Class Members.

20. Are there more details about the Settlement?

For more details regarding the lawsuit or the Settlement, you may refer to the papers filed in this case during regular business hours at the Clerk of the Court's office, United States District Court for the Middle District of Florida, Tampa Division, U.S. Federal Building and Courthouse, 801 N Florida Ave, Tampa, FL 33602.

You may also access papers filed in this case on-line through the Public Access to Court Electronic Records ("PACER") service at www.pacer.gov; however, you may need to create an account and certain fees may apply. You may also obtain a copy of the full Settlement Agreement and certain papers filed in this case by sending a written request to the Settlement Administrator, at the address above. You may also access the full Settlement Agreement and certain court filings in this case on this website.

21. How can I get more information?

You may contact the Settlement Administrator or Class Counsel. Mailing addresses and phone numbers for each are listed below.

Settlement Administrator: Blessinger v Wells Fargo, c/o Settlement Administrator, P.O. Box 23489, Jacksonville, FL 32241, (888) 966-4765.

Class Counsel: Luis A. Cabassa, Esq. and Brandon J. Hill, Esq., Wenzel Fenton Cabassa, P.A., 1110 N. Florida Ave., Suite 300, Tampa, Florida 33602, (813) 244-0431; Marc R. Edelman, 201 N. Franklin Street, Suite 700, Tampa, FL 33602, 813-577-4722.