

SUPERIOR COURT OF THE STATE OF WASHINGTON, KING COUNTY

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

If you paid money to Microsoft for an MSN account established in your name at a Best Buy store, never logged on to the account, and never received a full refund, you may be entitled to a payment from a class action settlement.

The Court authorized this notice. It is not a solicitation from a lawyer.

Your legal rights are affected whether or not you act. Please read this notice carefully.

Your Legal Rights and Options in this Proposed Settlement	
SUBMIT A CLAIM	If the settlement is approved by the Court, you will receive a payment if you submit a valid claim form postmarked by September 27, 2010 . See question 7 below.
EXCLUDE YOURSELF	Receive no payment. This is the only option that allows you to bring your own lawsuit concerning the issues being settled in this case. See question 11 below.
COMMENT ON THE SETTLEMENT	Write to the Court to support or oppose the proposed settlement. See questions 12 and 13 below.
ATTEND A HEARING	Ask to speak in Court about the fairness of the proposed settlement. See questions 13 and 14 below.
DO NOTHING	Receive no payment, but if the settlement is approved, you will give up rights to sue. See question 15 below.

- These rights and options, and the deadlines to exercise them, are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the settlement. Payments will be made if the Court approves the settlement and after any appeals are resolved.

1. Why did I receive this notice?

You received this notice because Microsoft's records show that an MSN Internet access account with an initial free-trial period was established in your name at a Best Buy store between December 1, 1999 and June 30, 2004, that you never logged on to or used the account, and that you paid subscription fees to Microsoft for that account but did not receive a full refund. The Court ordered that this notice be sent to you because you have a right to know about a proposed class action settlement that may affect you. This notice explains the lawsuit, the settlement, who is covered by the settlement, your rights and options, the benefits available under the settlement, and how to obtain them.

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2. What is this lawsuit about?

Plaintiffs in this class action allege that Best Buy and Microsoft engaged in unfair business practices in connection with the promotion of MSN Internet access service subscriptions at Best Buy stores. From 1999 to 2004, Microsoft and Best Buy promoted Microsoft's MSN Internet service at Best Buy stores by offering MSN subscriptions with free-trial periods. Unless a registered subscriber cancelled the MSN service during the trial period, Microsoft would begin charging the subscriber's credit or debit card at the end of the trial period, even if the subscriber had never logged on to or used the MSN service. Plaintiffs allege that requiring consumers to cancel a service they never used to avoid being charged was unfair and violated Washington State law. Microsoft and Best Buy deny they did anything wrong and say it was fair to ask subscribers to cancel their trial subscriptions to avoid being charged after the free-trial period ended. The Court has not decided who is right or wrong.

3. Why is there a settlement?

This vigorously contested litigation has been pending for seven years. Microsoft and Best Buy deny all allegations of wrongdoing or liability. The Court has required Plaintiffs to concede, as a condition of allowing the case to proceed as a class action, that consumers were informed that they were signing up for MSN and that they had to call to cancel in order to avoid charges after the free-trial period ended.

Plaintiffs and their attorneys have concluded that the settlement is in the best interests of the class because it provides a recovery now while avoiding the risk, expense, uncertainty, and delay of pursuing the case through trial and any appeals. Microsoft and Best Buy decided to settle to avoid the further expense, inconvenience, burden, uncertainty, and risk of continued litigation.

4. Who is included in the settlement?

The settlement includes **all people in the United States who (1) at any time from December 1, 1999 to the present, paid Microsoft for charges in connection with a free-trial MSN Internet access service account that was established in their name at a Best Buy store between December 1, 1999 and June 30, 2004, but did not receive a full refund, and (2) did not log on to the account.**

Excluded from the proposed class are Defendants Microsoft and Best Buy, any entity in which any Defendant has a controlling interest, Defendants' officers, directors, and employees, Defendants' legal representatives, heirs, successors, and assigns, and any judge to whom the case is assigned and his or her immediate family.

In addition, the class will exclude everyone who timely files a valid request for exclusion from the class. The procedure for exclusion is described below under question 11.

5. I already received a notice about this lawsuit in June 2006. Why?

In June 2006, you were sent a notice informing you that the Court authorized, or "certified," the case to proceed to trial as a class action lawsuit. The Court did not decide whether Microsoft and Best Buy did

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anything wrong. You were given the opportunity to exclude yourself from the lawsuit at that time, but no written exclusion request was received from you and therefore you remain a member of the class at this time. You can view the previous notice at www.internetfreetrialsettlement.com/.

6. What does the settlement provide?

If the Settlement is Approved:

- **You will receive a payment**, as described below under question 7.
- **If you are currently paying for an MSN free-trial subscription established at a Best Buy store between December 1, 1999 and June 30, 2004, Microsoft will cancel it and stop billing you, unless you ask for it to stay open.**
- **Microsoft or Best Buy will pay agreed litigation costs**, including costs of giving notice to the class, administering the settlement, Court-approved incentive awards to the two Plaintiffs, and a Court-approved award of attorneys' fees and expenses to Plaintiffs' attorneys up to the amounts identified in question 9 below.

7. How do I obtain a payment under the settlement?

If the settlement is approved by the Court and you mail the Claims Administrator a timely and valid claim form, you are entitled to receive a refund of MSN charges that you paid on your account that were not previously refunded, up to a maximum of \$75. Most charges were \$21.95 per month. To request a payment, you must complete, sign, and mail the accompanying claim form. Please provide all requested information, sign and date the form, and mail it to the Claims Administrator at the address provided on the form, **postmarked no later than September 27, 2010**.

You do not need to specify the amount of your claim. Microsoft's records show the charges to each class member that have not been refunded. If the settlement is approved by the Court, each class member who submits a timely and valid claim will be sent a check for the appropriate amount. **You must deposit or cash the check within 6 months after the date on the check.** If you do not, the check will be void and you will no longer be entitled to any payment from the settlement fund, but you will still be bound by the terms of the settlement, including the release of your claims.

If the Claims Administrator determines that your claim form is deficient, you will be notified in writing and given an opportunity to correct the deficiency.

8. What other benefits are provided by the settlement?

- If the settlement is approved and your MSN free-trial account created at a Best Buy store between December 1, 1999 and June 30, 2004 is still open, Microsoft will suspend service and billing on your account. If you have any unpaid charges, Microsoft will forgive them. Sixty days later, Microsoft will close your account unless you ask for it to stay open. If you do, Microsoft will reinstate your service and resume billing you as of the date your account is reinstated. You will not be charged for the time service was suspended.

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9. Who are the attorneys representing the class and how will they be paid?

The Court has appointed the following attorneys and law firms to represent the class as legal counsel:

Daniel C. Girard
GIRARD GIBBS LLP
601 California Street, Suite 1400
San Francisco, California 94108
Telephone: (415) 981-4800
Facsimile: (415) 981-4846
www.girardgibbs.com

Beth E. Terrell
TERRELL MARSHALL & DAUDT PLLC
3600 Fremont Avenue N.
Seattle, Washington 98103
Telephone: (206) 816-6603
Facsimile: (206) 350-3528
www.tmdlegal.com

When they ask the Court to approve the settlement, Class Counsel will also apply to the Court for an award of attorneys' fees and reimbursement of expenses in the total amount of \$2,625,000. Since the start of the lawsuit in May 2003, Class Counsel pursued the case on behalf of class members purely on a contingent basis. Class Counsel has received no compensation for their services or reimbursement of their expenses, except for recovery of certain fees and expenses incurred in connection with discovery disputes during the litigation. The \$2,625,000 that Class Counsel is applying for here compensates Class Counsel for fees and expenses not already reimbursed as part of the resolution of those discovery disputes.

Class Counsel will also ask the Court to approve incentive awards for the two Plaintiffs in the amount of \$2,500 each, for their initiative and effort in pursuing this case on behalf of the class, which included testifying at deposition and consulting with attorneys over six years.

Any awards for attorneys' fees, reimbursement of expenses, or incentive awards approved by the Court will be paid by Microsoft or Best Buy separately from, and without reducing, the settlement payments to class members, up to the amount of \$2,625,000 for attorneys' fees and expenses, and \$2,500 each for incentive awards for the two Plaintiffs.

10. What am I giving up to obtain a payment or stay in the class?

You must stay in the class to obtain a settlement payment. By staying in the class, you will give up any right you may have to pursue, continue to pursue, or be part of any other lawsuit against Microsoft, Best Buy or their affiliates concerning the free-trial MSN Internet access service offered through Best Buy stores, or providing or billing for that Internet access service. The legal claims you will release are described more fully in Paragraph 8 of the Settlement Agreement, which is available for viewing at www.internetfreetrialsettlement.com. You will also be bound by the Court's orders in this case, including the final judgment, which will dismiss all claims asserted on behalf of the class and order the parties to implement the settlement.

If you wish to keep your right to sue or continue a lawsuit concerning the free-trial MSN Internet access service offered through Best Buy stores, you must exclude yourself from the class.

11. How can I exclude myself from the class and settlement?

If you wish to exclude yourself from the class and settlement, you must submit a written exclusion request. If you exclude yourself, you cannot obtain a payment under the settlement; you will not be

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bound by the final judgment; and you will retain the right to pursue your own lawsuit concerning the free-trial MSN Internet access service offered through Best Buy stores, or providing or billing for that Internet access service.

To request exclusion, you must write a letter or postcard that lists your name, address, and telephone number, and states that you wish to be excluded from the class and settlement in *Odom v. Microsoft and Best Buy*, case number 04-2-10618-4 SEA. You must sign the letter or postcard and send it to the Claims Administrator at **P.P. B0x 13005, Birmingham, AL 35202-3005, postmarked by August 9, 2010** or if delivered by a delivery service other than U.S. Mail so that it is **received no later than August 9, 2010**.

12. How can I tell the Court what I think about the settlement?

Unless you exclude yourself as described above under question 11, you can comment in support of or in opposition to the settlement, Class Counsel's application for attorneys' fees and expenses, or the request for incentive awards for the two Plaintiffs. Your objections or comments must be submitted in writing. You must send the original of your objections or comments to the Clerk of the Court and send copies to Class Counsel, Microsoft's counsel, and Best Buy's counsel at the following addresses, so that your objections or comments are **received no later than August 9, 2010**:

Clerk of the Court
Superior Court of Washington for King County
King County Courthouse
516 Third Avenue, Room E-609
Seattle, Washington 98104

Class Counsel:

Daniel C. Girard
Girard Gibbs LLP
601 California Street
Suite 1400
San Francisco, CA 94108

Counsel for Microsoft:

Charles B. Casper
Montgomery, McCracken,
Walker & Rhoads, LLP
123 South Broad Street
Philadelphia, PA 19109-1099

Counsel for Best Buy:

Harry H. Schneider, Jr.
Perkins Coie LLP
1201 Third Avenue
Suite 4800
Seattle, WA 98101-3099

Your objections or comments (a) must include a reference at the beginning to *Odom v. Microsoft and Best Buy*, case number 04-2-10618-4 SEA; (b) must list your name, address, and telephone number; (c) must be signed by you; and (d) must state your position and the reasons for your position. You must include copies of any documents you wish the Court to consider. If you do not present your views in writing in compliance with the foregoing procedure and deadline, your views will not be considered, and you will waive any objections you have.

As described below, the Court will hold a hearing to decide whether to approve the settlement. If you submit written objections or comments and wish to appear and speak at the hearing, your objections or comments must include a statement that you intend to appear and speak at the fairness hearing, must set forth the position that you intend to present at the hearing, and include copies of any documents you wish the Court to consider.

If you want your own lawyer to appear and speak at the hearing on your behalf, you must also state in your written objections or comments that you intend to have your lawyer appear and speak for you, and list the name, address, and telephone number of your lawyer.

13. When and where will the Court hold a hearing on the fairness of the settlement?

This lawsuit is pending before the Honorable Douglass A. North of the Superior Court of Washington for King County (Seattle). On **September 24, 2010, at 1:30 p.m.**, Judge North will hold a hearing on the fairness of the settlement and whether it should be approved. The hearing will be held in Courtroom W-764 of the Superior Court of Washington for King County, 516 Third Avenue, Seattle, Washington 98104. At the hearing, Judge North will also consider Class Counsel's application for attorneys' fees and expenses and the request for incentive awards for the two named Plaintiffs.

14. Do I have to come to the hearing? May I speak at the hearing?

You are not required to attend the hearing to have the Court consider your written comments or objections. You or your lawyer may attend the hearing if you wish, at your own expense.

If you wish to speak at the hearing, you must submit written comments or objections, including a statement that you intend to appear and speak at the hearing, in compliance with the procedures and deadline set forth under question 12 above.

15. What happens if I do nothing at all?

If you do nothing and the settlement is approved, you will receive no payment from the settlement. You will still be part of the class, however, and your legal claims will be released as described under question 10 above, and you will be prohibited from pursuing them. In other words, if you do nothing at all, your legal claims will be released and you will receive no payment.

16. How do I get more information?

This notice provides only a summary of information about the settlement. For more details, you may wish to review the Settlement Agreement and other documents available for viewing at www.internetfreetrialsettlement.com. You can also get more information by calling the Claims Administrator toll free at 1-800-754-9649. The Settlement Agreement and all other pleadings and papers filed in the lawsuit are available for inspection and copying during regular business hours at the office of the Clerk of the Court, Superior Court of Washington for King County, 516 Third Avenue, Room E-609, Seattle, Washington 98104.

If you would like more information, you may also contact Class Counsel by contacting them at the address and telephone number listed under question 9 above.

PLEASE DO NOT CONTACT THE COURT, MICROSOFT, OR BEST BUY WITH QUESTIONS ABOUT THE SETTLEMENT.

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