

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

The case is titled *Joanne F. Balbarin, et al. v. North Star Capital Acquisition, LLP, et al.*,
Case No. 10-cv-1846.

**THIS IS A NOTICE OF A SETTLEMENT OF A CLASS ACTION LAWSUIT.
THIS IS NOT A NOTICE OF A LAWSUIT AGAINST YOU.
YOU ALREADY RECEIVED NOTICE OF THE POSSIBLE SETTLEMENT
OF THIS CASE EARLIER THIS YEAR.**

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

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

OBJECT	Write to the Court about why you do not 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.

These rights and options and the deadlines to exercise them are explained below.

1. Why did I get this notice?

You are receiving this notice because you were identified as a person with a cellular telephone number in an Illinois area code who on or after March 24, 2006 and on or before April 13, 2010, received an automated call with a prerecorded message from Defendant Nelson, Watson & Associates, LLC, (“Defendant”), even though you did not provide prior express consent to Defendant to contact you by telephone.

In June 2011, you were sent notice of this lawsuit. You were given the opportunity to exclude yourself from the class and you chose to remain in the class.

2. What is this lawsuit about?

On March 24, 2011, Plaintiff, Joanne F. Balbarin, individually and on behalf of a class, filed a lawsuit in the United States District Court for the Northern District of Illinois, Eastern Division, entitled *Joanne F. Balbarin v. North Star Capital Acquisition, LLC; Zenith Acquisition Corporation; Data Search N.Y. Inc. d/b/a TrakAmerica; Blitt and Gaines, P.C.; and Nelson Watson & Associates, LLC.*, Case No. 10 C 1846, as amended on April 29, 2010, and later consolidated on May 27, 2010 (the “Lawsuit”). In Count VIII of the lawsuit, Plaintiff alleged that Defendant Nelson Watson & Associates, LLC used an autodialer with a prerecorded message to call Plaintiff and the members of the Settlement Class without their prior express

consent in violation of the Telephone Consumer Protection Act (“TCPA”). On January 5, 2011, the Court certified a class that includes you.

The other counts in the Lawsuit have already settled.

3. Why is this a class action?

In a class action, one or more people called Class Representatives (in this case, Joanne F. Balbarin), sue on behalf of a group (or a “Class”) of people who have similar claims. In this case, the Class Representative sued the Defendant regarding the Defendant’s use of automated calls with a prerecorded message.

4. Why is there a settlement?

To avoid the cost, risk, a potential change in the law and delay of litigation, the parties reached a settlement agreement.

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

The Court has certified a class consisting of all people who meet the following definition:

(a) All persons with a cellular telephone number in the Illinois area codes (217), (224), (309), (312), (331), (464), (618), (630), (708), (773), (779), (815), (847) or (872) (b) who, on or after March 24, 2006 (28 U.S.C. § 1658), and on or before April 13, 2010, (c) received automated calls with a prerecorded message from Defendant Nelson, Watson & Associates, LLC (d) in an attempt to collect a debt on behalf of North Star (e) where Defendant Nelson, Watson & Associates, LLC’s records do not show that the person provided the number to Defendant Nelson, Watson & Associates, LLC or the original creditor.

According to Defendant’s records, you are a class member. Defendant has identified approximately 1,975 class members, including yourself.

YOUR BENEFITS UNDER THE SETTLEMENT

6. What can I get from the settlement?

The total common Settlement Fund is \$500,000.00. If you do nothing, you will be entitled to a *pro rata* share of the common Settlement Fund, *after* the deduction of the costs of administration of the settlement, attorney’s fees and costs awarded to Class Counsel by the Court, and the amount awarded to Plaintiff by the Court. We estimate that each class member who receives this notice will receive approximately \$150.00.

7. When will I receive these benefits?

If no objections are received, you will receive these benefits approximately 45 days after the Court enters a Final Approval Order.

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

Nothing. You will receive your share of the benefits as described above in No. 6 if you received this notice.

If this notice was sent to you at your current address, you do not have to do anything more to receive your settlement payment. 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:

[NAME/ADDRESS OF CLASS ADMINISTRATOR]

9. What am I giving up to receive these benefits?

Having previously agreed to remain in the class, all of the Court's orders apply to you, and you give Defendant a "release." A release means you cannot sue or be part of any other lawsuit against Defendant about the claims or issues in this lawsuit with respect to the facts alleged in the Lawsuit. In addition to the TCPA claim alleged in the Lawsuit, you will be giving Defendant a release from all other claims common to the class based on the facts alleged in the Lawsuit.

10. How much will the Class Representative receive?

Plaintiff will petition the Court for a payment of \$30,000 for her statutory damages under the TCPA, which includes an incentive award for serving as the class representative. This amount is subject to the Court's Approval.

THE LAWYERS REPRESENTING YOU

11. Do I have a lawyer in this case?

The Court has named the law firms of Edelman, Combs, Lattuner & Goodwin LLC and Warner Law Firm, LLC as Class Counsel. You will not be charged for these lawyers. However, they will receive a payment from the Settlement Fund in the amount of \$166,666.66 (one hundred sixty-six thousand six hundred sixty-six dollars and sixty-six cents) if approved by the Court. 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 _____, 2011.

12. How will the lawyers be paid?

Class Counsel will ask the Court for \$166,666.66 (one hundred sixty-six thousand six hundred sixty-six dollars and sixty-six cents) from the Settlement Fund as an amount of reasonable attorneys' fees and expenses.

CLASS COUNSEL'S VIEWS ABOUT THE SETTLEMENT

13. Is this a fair settlement?

Class Counsel believes that this settlement is fair. The TCPA is a federal statute which provides for \$500 per violation of the Act and \$1,500 per violation if Defendant's conduct is determined to be willful. In this case, after the deduction of the costs of administrating the class, Plaintiff's award, and attorney's fees and costs, the class recovery of \$500,000 will be divided on a *pro rata* basis among those approximately 1,975 class members who receive this notice. It is estimated that each class member who receives this notice will receive approximately \$150.00. Given that Defendant has vigorously opposed this class and has already taken one appeal to the 7th Circuit, and the potential of a change in law, Class Counsel believes that this is a fair settlement for the class.

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

As stated above, by settling this lawsuit, Defendant Nelson Watson & Associates, LLC is not admitting that it has done anything wrong. Defendant expressly denies the TCPA claims asserted by the Plaintiff and denies all allegations of wrongdoing and liability.

OBJECTING TO THE SETTLEMENT

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

15. How do I tell the Court that I do not like the Settlement?

You can object to the settlement. In order to object to the settlement or any part of the settlement, you must 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: *Joanne F. Balbarin v. North Star Capital Acquisition, LLC., et al.*, Case No. 10 C 1846 (N.D. Ill.), your name, address, telephone number, and signature. If you are objecting to the settlement, you may also appear at the fairness hearing (explained below in item #16). You must mail your objection so that it is postmarked no later than _____ 2011 to:

Clerk of the Court, United States District Court for the Northern District of Illinois, 219 S. Dearborn Street, Chicago, IL 60604

You must also send a copy of your objection to counsel for **both** the class and the defendant:

QUESTIONS? CALL (312) 739-4200 TO CONTACT CLASS COUNSEL'S OFFICE – CASE #24024

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THE FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the settlement. You may attend if you wish, but you are not required to do so.

16. Where and when is the fairness hearing?

The Court will hold a fairness hearing on _____ a.m. in the courtroom of Judge Bucklo, Room 1441 of the Dirksen Federal Building, 219 S. Dearborn St., Chicago, Illinois, 60604. 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.

YOU ARE **NOT** REQUIRED TO ATTEND THIS HEARING TO BENEFIT FROM THIS SETTLEMENT. The hearing may be postponed to a later date without notice.

GETTING MORE INFORMATION

You can call Class Counsel, Edelman, Combs, Lattuner & Goodwin, LLC, at (312) 739-4200, if you have any questions. You can also send an email to info@edcombs.com or obtain information through the firm's website at www.edcombs.com.