

United States District Court for the District of New Jersey
MacDonald, et al. v. CashCall, Inc., et al., No. 2:16-cv-02781

- This is a Court authorized notice of a proposed settlement in a class action lawsuit.
- The lawsuit was brought on behalf of New Jersey borrowers who took out Western Sky loans. The lawsuit alleges that the interest rates on those loans was too high and that CashCall, Inc., WS Funding, LLC, Delbert Services, Corp., and J. Paul Reddam (the “Defendants”) were at fault. The Defendants have denied any wrongdoing. The parties reached this Settlement before the Court made a determination about whether the law had been broken.
- The Defendants will pay a total of \$14,500,000 under the Settlement, will inform third parties to which they sold the loans that the loans should be canceled and that the amounts allegedly owed by borrowers are in dispute, will contact credit agencies to request removal of negative credit reporting by Defendants or their agents regarding the Western Sky loans at issue, and will refrain from selling any personal data about the New Jersey borrowers.
- The details of the Settlement are provided below.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing	You will receive a check if the Court approves this Settlement, but you will give up your rights to sue the Defendants over the matters being resolved by this Settlement.
Exclude Yourself	This is the only option that allows you to bring your own case or be part of any other lawsuit or legal action against the Defendants about the matters being resolved in this Settlement. However, you will not receive any payment in this Settlement.
Object	If you do not exclude yourself, you may write to the Court about why you object to the Settlement.
Go to a Hearing	You may ask to speak in Court about the fairness of the Settlement. You may not speak if you exclude yourself from the Settlement.

Your rights and options—and the deadlines to exercise them—are explained in this Notice.

This notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, you may view the Settlement Agreement at www.NJcashcallsettlement.com. You may also contact the Settlement Administrator at 1-800-484-7622. You may access the Court docket in this case through the Court’s Public Access to Court Electronic Records (PACER) system at www.pacer.gov, or visit the office of the Clerk of the Court for the District of New Jersey, 50 Walnut Street, Newark, NJ, between 9:00 AM and 4:00 PM, Monday-Friday, excluding Court holidays. Please do not call the Court.

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Basic Information

This Notice has been sent to you because members of the Settlement Class have a right to know about a proposed settlement of a class action lawsuit in which they are class members and about all of their options before the Court decides whether to approve the Settlement. If the Court approves the Settlement, and after objections or appeals relating to that Settlement are resolved, the benefits provided for by the Settlement will be available to members of the Settlement Class.

This Notice explains the case, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them. A full copy of the Settlement Agreement may be reviewed at the Settlement Website: www.NJcashcallsettlement.com. This Notice contains only a summary of the Settlement Agreement.

The Court in charge of this case is the United States District Court for the District of New Jersey, and the case is known as *MacDonald, et al. v. CashCall, Inc., et al.*, Case No. 2:16-cv-02781-MCA-ESK (the “Litigation”). The people who filed this Litigation, John Scott MacDonald and Jessica Spearman, are called the Named Plaintiffs, and CashCall, Inc., WS Funding, LLC, Delbert Services, Corp., and J. Paul Reddam are the Defendants.

1. Why did I get this Notice?

The Court in this case approved the posting of this Notice so that it could be viewed by potential members of the Settlement Class. The Settlement Class includes:

All individuals who, on or after May 17, 2010, made payments to one or more Defendants on loans originated by CashCall, Inc., WS Funding, LLC, Delbert Services Corp., J. Paul Reddam, or Western Sky Financial, LLC where the borrower was a New Jersey resident.

You have been identified as a member of the Settlement Class based upon CashCall’s records and investigation. If you are unsure of whether you are in the Settlement Class, you can contact the Settlement Administrator at 1-800-484-7622.

2. What is the Litigation about?

The Named Plaintiffs allege that Defendants violated New Jersey usury and consumer law and the federal Racketeer Influenced Corrupt Organizations Act (“RICO”) by charging more than 16% interest rate on loans and not having a true affiliation with a Native American tribe.

Defendants dispute the Named Plaintiffs’ allegations and deny all liability. Defendants have raised a number of defenses to the claims asserted.

Your interest as a member of the Settlement Class will be represented by the Named Plaintiffs and their lawyers. You will be bound by any judgment arising from the Settlement unless you exclude yourself from the Settlement.

The parties are settling the Litigation to avoid the risk and expense of further litigation. No court has found that the Named Plaintiffs could recover any certain amount in this Litigation.

Although the Court has authorized notice to be given of the proposed Settlement, this Notice does not express the opinion of the Court on the merits of the claims or defenses asserted by either side in the Litigation.

3. Why is this case 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, representative plaintiffs are called “Class Representatives.” They seek to assert claims on behalf of all members of a class or classes of similarly situated people. By doing this, they can conserve resources by asserting their claims in a single lawsuit. Class actions often involve circumstances where claimed individual damages are too small for people to proceed on their own, but where the defendant’s conduct affected a lot of people all in the same way. Here, the Named Plaintiffs are the Class Representatives.

Lawyers who represent people who file class actions are called “class counsel.” To date, the lawyers who brought this case (“Class Counsel”) have not been paid any money for their work and have paid all their expenses out of pocket. They will only be paid if they win the Litigation or if the Court approves the Settlement.

4. Why is there a settlement?

The Court did not decide this case in favor of the Named Plaintiffs or in favor of the Defendants. If approved, the Settlement will stop the Litigation. If the Litigation continued, there is a possibility that the Settlement Class would receive nothing. There is also the possibility that Defendants would be required to pay more than they have agreed to pay as a result of the Settlement.

Class Counsel investigated the facts and applicable law regarding the Named Plaintiffs’ claims and Defendants’ defenses. The parties engaged in lengthy and arms-length negotiations to reach this Settlement. The Named Plaintiff and Class Counsel believe that the proposed Settlement is fair, reasonable, and adequate and in the best interests of the Settlement Class.

Both sides agree that, by settling, Defendants are not admitting any liability or that they did anything wrong. Both sides want to avoid the uncertainties and expense of further litigation.

Who Is In The Settlement

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

If you received a postcard notice, CashCall’s records indicate that you are a member of the Settlement Class defined above. If you are not certain as to whether you are a member of the Settlement Class, you may contact the Settlement Administrator at 1-800-484-7622.

The Settlement Benefits—What You Get

6. What does the settlement provide?

The Settlement provides monetary benefits and injunctive relief for Settlement Class Members.

First, Defendants have stopped collecting on Western Sky loans. Third parties, however, may have bought the loan and may be collecting. As part of this Settlement Defendants agree to inform those third parties that the loans should be canceled and that the amounts allegedly owed by borrowers are in dispute, contact credit agencies to request removal of negative credit reporting related to the Western Sky loans at issue, and refrain from selling any personal data about the New Jersey borrowers. Second, Defendants will provide a settlement fund of \$14,500,000. This money will be divided among the approximately 10,574 Settlement Class Members and will also be used to pay for any Court-approved attorneys’ fees, Class Representative awards, and administration costs.

The exact amount each Settlement Class Member will receive will depend on the total amount of interest the Settlement Class Member paid, as well as the amounts of awards and costs approved by the Court.

7. How can I get a benefit?

You do not need to do anything to receive a benefit. If the Settlement is approved, the Settlement Administrator will send you a check for your share of the Settlement.

If you change your address, you must inform the Settlement Administrator by calling 1-800-484-7622, emailing NJcashcallsettlement@atticusadmin.com, or submitting a change of address online at www.NJcashcallsettlement.com.

8. When would I get my benefit?

The Court will hold a final approval hearing on October 1, 2020 at 2:00 p.m. to decide whether to approve the Settlement. If the Settlement is approved, there may be appeals. Payments to members of the Settlement Class will be made only if the Settlement is finally approved. The \$14,500,000 will be distributed in two separate payments.

The first payment will be \$10,000,000. Any approved Class Representative awards, settlement administration expense incurred to date, and costs will be paid from the \$10,000,000. The pro rata share of any approved fee for Class Counsel will also be paid from the \$10,000,000. The balance will be distributed to Settlement Class Members in proportion to the amount each person paid on their loan(s). Notwithstanding the foregoing, no one shall receive a check for less than \$10. It is the parties' goal that this happens in or before December 2020, but the exact timing will depend on when the settlement becomes final.

The second payment will be \$4,500,000. Any approved additional settlement administration expenses and the remainder of any approved fees for Class Counsel will be paid from the \$4,500,000. The balance will be distributed to Settlement Class Members in proportion to the amount each person paid on their loan(s). Notwithstanding the foregoing, no one shall receive a check for less than \$10. It is the parties' goal that this happens in or before December 2021, but the exact timing will depend on when the Settlement becomes final.

The non-monetary relief described in Section 6 above will be completed within 60 days of the Settlement becoming final. It may take some time for the Settlement to become final, so please be patient.

9. What am I giving up to get a benefit or stay in the Settlement Class?

Upon the Settlement becoming final, Named Plaintiffs and Class Counsel, all Settlement Class Members who have not timely and properly opted out of the Settlement Class and all those acting or purporting to act on their behalf fully and forever release, waive, acquit, and discharge the Released Parties from any and all claims the Settlement Class has arising out of or relating directly or indirectly in any manner whatsoever to the facts alleged or which could have been alleged or asserted in the Complaint and Amended Complaint, including but not limited to any and all claims related to Western Sky Loans. This release explicitly includes claims for actual damages/restitution and treble damages, as well as for attorneys' fees and costs. The Parties agree that the payments made under the Settlement Agreement are meant to compensate Settlement Class Members for all harms incurred as a result of the allegations set forth in the Complaint and Amended Complaint.

Released Parties means Defendants CashCall, Inc., W.S. Funding, LLC, Delbert Services Corp., and J. Paul Reddam, their current, former and future direct and indirect parent companies, affiliates, subsidiaries, agents,

representatives, successors, predecessors-in-interest, related entities and each of their respective officers, directors, employees, and insurers and assigns and all persons acting for or on their behalf, including Defendant Reddam.

The Complaint and Amended Complaint are available at www.NJcashcallsettlement.com and allege unjust enrichment and claims under RICO, New Jersey usury law, and the New Jersey Consumer Fraud Act. The claims are based on Defendants' claimed association with a Native American tribe and the interest rate charged on Western Sky loans.

This release may affect your rights, and may carry obligations, in the future. To view the full terms of this release, which are contained in the Settlement Agreement, please visit www.NJcashcallsettlement.com.

10. How do I get out of the settlement?

If you choose to be excluded from the Settlement (or "opt out"), you will not be bound by any judgment or other final disposition of the Litigation and you will not receive any settlement payment. You will retain any claims against Defendants you might have. To opt out, you must state in writing your desire to be excluded from the Settlement Class. **Your request for exclusion must be sent by first class mail, postmarked on or before September 4, 2020**, addressed to:

MacDonald, et al., v. CashCall, Inc., et al.
c/o Atticus Administration
PO BOX 64053
St. Paul, MN 55164

If the request is not postmarked on or before September 4, 2020, 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 judgment ultimately rendered in the case, and you will be barred from bringing any claims which arise out of or relate in any way to the claims in the Litigation as specified in the release referenced in paragraph 9 above.

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

No. Unless you exclude yourself, you give up any right to sue CashCall, Inc., W.S. Funding, LLC, Delbert Services Corp., and J. Paul Reddam, their current, former and future direct and indirect parent companies, affiliates, subsidiaries, agents, representatives, successors, predecessors-in-interest, related entities and each of their respective officers, directors, employees, and insurers and assigns and all persons acting for or on their behalf, including Defendant Reddam. If you have a pending lawsuit against any of these entities or people, you should speak to your lawyer in that case immediately.

12. If I exclude myself, can I get benefits from this settlement?

No. If you exclude yourself, you are not part of the Settlement.

The Lawyers Representing You

13. Do I have a lawyer in this case?

The Court has appointed Nichols Kaster, PLLP, Gupta Wessler PLLC, and Schall & Barasch, LLC as Class Counsel:

NICHOLS KASTER, PLLP
Anna P. Prakash
Brock J. Specht
Robert L. Schug
Matthew H. Morgan
4600 IDS Center
80 South Eighth Street
Minneapolis, MN 55402
Telephone: (612) 256-3253
Facsimile: (612) 338-4878

GUPTA WESSLER PLLC
Matthew Wessler
1900 L Street NW, Suite 312
Washington, DC 20036
Telephone: (202) 888-1741
Facsimile: (202) 888-7792

SCHALL & BARASCH, LLC
Patricia A. Barasch
Moorestown Office Center
110 Marter Avenue, Suite 105
Moorestown, NJ 08057
Telephone: (856) 914-9200
Facsimile: (856) 914-9420

You may hire your own attorney to advise you, but if you hire your own attorney, you will be responsible for paying that attorney's fees.

14. How will the lawyers and Class Representatives be paid?

Class Counsel are working on a contingent fee basis and have not been paid anything for their representation of the Settlement Class to date. Also, they have paid all the expenses of litigation out of their own pockets. If they were to lose the case, they would be paid nothing.

In connection with this Settlement, Class Counsel intend to apply to the Court for an award of attorneys' fees, in an amount not to exceed \$4,833,333.33, which is one-third of the settlement fund. They may seek less. They also intend to seek out-of-pocket litigation expenses incurred during the Litigation, which roughly total \$70,000 to date. Their request will be made through a fee petition filed with the Court and posted to www.NJcashcallsettlement.com no later than August 21, 2020. The Court will evaluate whether this fee request is reasonable in light of Class Counsel's skill and the risk they undertook in bringing the Litigation. The Court may award less.

The Court has appointed Named Plaintiffs John Scott MacDonald and Jessica Spearman as Class Representatives. Class Counsel also will seek compensation for the Named Plaintiffs in an amount not to exceed \$10,000 each. This compensation is intended to compensate the Class Representatives for the time and effort they have put into pursuing this Litigation on behalf of everyone in the Settlement Class.

The costs of settlement administration are expected to be approximately \$46,750.

If awarded by the Court, all of these amounts will be paid directly out of the settlement fund of \$14,500,000.

Objecting To The Settlement

15. How do I tell the Court that I don't like the settlement?

You can ask the Court to deny approval of the Settlement by filing an objection. You cannot ask the Court to order a larger settlement; the Court can only approve or deny the Settlement as is. If the Court denies approval, no settlement payments will be sent out and the Litigation will continue. If that is what you want to happen, you must object in writing.

If you timely object, you may also appear at the final approval hearing, either in person, or through your own attorney. If you appear through your own attorney, you are responsible for paying that attorney.

All written objections and supporting papers must (a) clearly identify the case name and number (*MacDonald, et al. v. CashCall, Inc., et al*, Case No. 2:16-cv-02781-MCA-ESK); (b) contain the basis for and an explanation of the objection; (c) contain your name, address, telephone number, and email address (if you have one); (d) include a statement of whether you intend to appear at the final approval hearing, either with or without an attorney; (e) be submitted to the Court, either by mail to the Clerk of Court, United States District Court for the District of New Jersey, 50 Walnut Street, Newark, NJ 07102, or by filing your objection in person at any location of the United States District Court for the District of New Jersey, and (f) have a copy mailed to the Settlement Administrator. You or your counsel must personally sign the objection. Your objection must be filed and/or postmarked on or before **September 4, 2020**.

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 that objection later.

The parties have agreed and it is a term of the Settlement that no payments will be made to any objector, or any objector's counsel without district court approval. The parties' Agreement further requires the district court to approve any payments made in connection with an objector withdrawing or dismissing an appeal.

16. What's the difference between objecting to the settlement and excluding yourself from it?

Objecting is simply telling the Court that you don't like something about the Settlement. You can object only if you stay in the Settlement. Excluding yourself is telling the Court that you don't want to be part of the Settlement. If you exclude yourself, you have no basis to object because the Litigation no longer affects you.

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

There will be a final approval hearing to consider approval of the proposed Settlement on October 1, 2020 at 2:00 p.m. at the United States District Court for the District of New Jersey, 50 Walnut Street, Newark, NJ 07102. The hearing may be postponed to a later date without further notice. Settlement Class Members should check www.NJcashcallsettlement.com regularly for any changes to this date. The purpose of the hearing is to determine the fairness, reasonableness, and adequacy of the terms of 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 and Class Representative's compensation.

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 counsel. The appearance of your own attorney is not necessary to participate in the hearing.

18. Do I have to come to the hearing?

No. Class Counsel will represent the Settlement Class at the final approval hearing, but you are welcome to come at your own expense. If you submit any objection, you do not have to come to Court to talk about it, but you may do so if you wish. As long as you filed and mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, if you wish.

19. May I speak at the hearing?

You may ask the Court for permission to speak at the final approval hearing. To do so, you must send a letter saying that it is your “Notice of Intention to Appear in *MacDonald, et al. v. CashCall, Inc., et al.*, Case No. 2:16-cv-02781-MCA-ESK.” You must include your name, address, telephone number, and email address (if you have one). You must (A) submit your letter to the Court, either by mail to the Clerk of Court, United States District Court for the District of New Jersey, 50 Walnut Street, Newark, NJ 07102, or by filing your letter in person at any location of the United States District Court for the District of New Jersey; and (B) have a copy of the letter mailed to the Settlement Administrator. Your letter must be postmarked no later than September 4, 2020.

Getting More Information

20. Are there more details about the Settlement?

This notice is only a summary. For a more detailed statement of the matters involved in the Litigation or the Settlement, you may refer to the papers filed in this case. They are available during regular business hours at the office of the Clerk of the Court, United States District Court for the District of New Jersey, 50 Walnut Street, Newark, NJ 07102. The full Settlement Agreement and certain pleadings filed in the case are also available at www.NJcashcallsettlement.com or can be requested, in writing from the Settlement Administrator or by calling 1-800-484-7622.

21. How do I get more information?

You can visit www.NJcashcallsettlement.com or contact the lawyers representing the Settlement Class, identified in Paragraph 13 above. **Please do not contact the Court for information.**