

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

AGUILAR AUTO REPAIR et al.,)	
)	
Plaintiffs,)	Case No. 3:23-cv-06265
)	
v.)	
)	
WELLS FARGO BANK, N.A., et al.,)	
)	
Defendants.)	
)	

PLEASE READ THIS NOTICE CAREFULLY. IT RELATES TO THE PROPOSED SETTLEMENT OF A CLASS ACTION AND CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHTS.

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

Call records indicate that you or your business received at least one telephone call from The Credit Wholesale Company, Inc. between October 22, 2014 and November 17, 2023. Based on those records, you or your business are eligible for a settlement payment if you sign and return a Claim Form or if you submit a claim online at www.CallRecordingClassAction.com on or before April 11, 2025.

The settlement provides for an **estimated minimum payment of approximately \$86 for each eligible call you received and could be as high as \$5,000 per call**, but you need to submit a claim as described below in order to be eligible to receive payment.

I. What is this Notice about?

This Notice is being issued to notify you of a class action lawsuit regarding the recording of certain calls to California businesses. On January 24, 2025, the Court preliminarily approved a settlement of the Lawsuit. The purpose of this Notice is to inform you of the Lawsuit and the proposed settlement. In addition, this Notice will advise you of what to do if you want to remain a part of the Lawsuit, what to do if you want to be excluded from the Lawsuit, and how joining or not joining the Lawsuit may affect your legal rights.

II. What is the Lawsuit about?

The class action lawsuit was filed on October 10, 2023, and is currently pending in the United States District Court for the Northern District of California, entitled *Aguilar Auto Repair et al. v. Wells Fargo Bank, N.A., et al.*, Case No. 3:23-cv-06265 (the “Lawsuit”). The Lawsuit alleged that an independent sales organization named The Credit Wholesale Company, Inc. (“Wholesale”) recorded certain calls to California residents without disclosing the fact that the call was being recorded in violation of Sections 632 and 632.7 of the California Invasion of Privacy Act (“CIPA”). The Lawsuit further alleged that the purpose of these calls was to set in-person sales appointments with the businesses to sell credit card processing equipment and services on behalf of Wells Fargo Bank, N.A. (“Wells Fargo”) and Priority Technology Holdings, Inc. and Priority Payment Systems, LLC (together, “Priority”), all of whom, along with Wholesale, are named as defendants in the Lawsuit. Defendants deny any wrongdoing or liability in connection with the Lawsuit.

III. What are the benefits of the proposed settlement?

Under the proposed settlement, Defendants will make a payment of \$19,500,000 to create a fund on behalf of the Settlement Class Members (the “Settlement Fund”). Settlement Class Members who do not exclude themselves from the Lawsuit are eligible for a cash payment from the Settlement Fund for each call that is covered under the class definition set forth in Section VII below (an “Eligible Call” as defined in the Settlement Agreement). Settlement Class Members who received multiple Eligible Calls are entitled to a cash payment for each Eligible Call. The minimum cash payment for each Eligible Call is estimated to be approximately \$86, but could be as high as \$5,000 per call depending on how many claims are submitted. It is not possible at this time, however, to know the exact amount of each payment. In addition to monetary relief, Defendant Wholesale has agreed not to record appointment-setting calls to California businesses unless it discloses at the outset of the call that the call is being recorded. Defendants will also pay settlement administration costs up to \$200,000.

IV. How do I receive a settlement payment?

In order to receive the cash payment described in this Notice, you must complete and sign the Claim Form that was mailed to you and mail it to the Settlement Administrator, or you can submit your claim online through the settlement website at www.CallRecordingClassAction.com, by the DUE DATE of April 11, 2025.

Regardless of whether you mail the Claim Form or submit a claim online, **you must do so by the DUE DATE of April 11, 2025** to be eligible to receive a payment. Settlement payments will only be issued if the proposed settlement is granted final approval by the Court. If your settlement payment is in excess of \$600, you will be required by law to submit a Form W-9 to the Settlement Administrator either by mail or secure online portal in order to receive any payment in excess of \$600. In the event your settlement payment is in excess of \$600, further instructions will follow on how to submit your Form W-9.

V. Why is there a proposed settlement?

The Court has not decided in favor of either side in the Lawsuit. Plaintiffs and Class Counsel believe the claims have merit. Defendants do not believe the claims have merit. Defendants are settling to avoid the expense, inconvenience, and inherent risk of litigation. Plaintiffs and Class Counsel believe that the proposed settlement is in the best interest of Settlement Class Members because it provides appropriate monetary recovery and other relief now while avoiding the risk, expense, and delay of pursuing the case through trial and any appeals, including the possibility of no recovery for Settlement Class Members whatsoever.

VI. What is a class action lawsuit?

A class action lawsuit is a legal action in which one or more people represent a large group, or class, of people. The purpose of a class action lawsuit is to resolve at one time similar legal claims of the members of the group.

VII. Who is in the class?

On January 24, 2025, the Court certified the Lawsuit as a class action for settlement purposes and defined the class as follows:

All businesses or individuals who received a telephone call from The Credit Wholesale Company, Inc. on a telephone in California between October 22, 2014 and November 17, 2023.

Any business or individual meeting this definition shall be referred to herein as a “Settlement Class Member” and, collectively, as the “Settlement Class” or “Settlement Class Members.”

VIII. When and where is the final approval hearing?

The final approval hearing has been set for May 20, 2025 at 10:30 a.m. before the Honorable Lisa J. Cisneros in Courtroom G (15th Floor) at 450 Golden Gate Avenue, San Francisco, California 94102. The date and time of the final approval hearing may change without further notice to the class. You can check to see if the time, manner, or location of the final approval hearing has changed by accessing the Court docket in this case, for a fee, through the Court’s Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov> or by checking the settlement website at www.CallRecordingClassAction.com.

The Court will hear any comments from the parties or objections concerning the fairness of the proposed settlement at the final approval hearing, including the amount requested for attorneys’ fees and costs or the requested incentive awards. You **do not** need to attend the final approval hearing to remain a Settlement Class Member or to obtain any benefits under the proposed settlement. You or your attorney may attend the hearing, at your own expense. You do not need to attend this hearing to have a properly filed and served written objection considered by the Court.

IX. How can I be excluded from the Lawsuit and the settlement?

Any Settlement Class Member has the right to be excluded from the Lawsuit by written request. If you wish to be excluded from the case, you must mail a written request to the Settlement Administrator at the address set forth below stating that you want to be excluded from the class. All exclusion requests must include: (i) the name and case number of the Lawsuit: *Aguilar Auto Repair et al. v. Wells Fargo Bank, N.A., et al.*, Case No. 3:23-cv-06265; (ii) the name, address, and telephone number of the Settlement Class Member electing exclusion; (iii) if the Settlement Class member is a business, the name and title of the person submitting the opt-out election for the Settlement Class Member and a representation that he or she has authority to make such an election on behalf of the Settlement Class Member; and (iv) a statement to the effect that the Settlement Class Member elects to be excluded from the Lawsuit and elects not to participate in the settlement. A Settlement Class Member’s exclusion request must be postmarked no later than **the DUE DATE of April 4, 2025** and sent to the

following address: *Aguilar Auto Repair et al. v. Wells Fargo Bank, N.A., et al.* Settlement Administrator, P.O. Box 301132, Los Angeles, CA 90030-1132. If you properly and timely elect to be excluded from the case, you will not have any rights as a Settlement Class Member pursuant to the proposed settlement, you will not be eligible to receive any monetary payment under the proposed settlement, you will not be bound by any further orders or the judgment entered in the Lawsuit, and you will remain able to pursue any claims alleged in the Lawsuit against Defendants on your own and at your own expense and with your own counsel. If you proceed on an individual basis after being excluded from the Lawsuit you may receive more, or less, of a benefit than you would otherwise receive under this proposed settlement or no benefit at all. If you do not exclude yourself from the case, you will be deemed to have consented to the Court's jurisdiction and to have released the claims at issue against Defendants as explained below, and will otherwise be bound by the proposed settlement.

X. How can I object to the settlement?

You can ask the Court to deny approval by filing an objection. You cannot ask the Court to order a different settlement; the Court can only approve or reject the settlement. If the Court denies approval, no settlement payments will be sent out, and the Lawsuit will continue. If that is what you want to happen, you should object. Any objection to the proposed settlement must be in writing. If you file a timely written objection, you may, but are not required to, 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 hiring and paying that attorney. All written objections and supporting papers must (i) clearly identify the case name and number (*Aguilar Auto Repair et al. v. Wells Fargo Bank, N.A., et al.*, Case No. 3:23-cv-06265), (ii) be submitted to the Court either by filing them electronically or in person at any location of the United States District Court for the Northern District of California or by mailing them to the Class Action Clerk, United States District Court for the Northern District of California, 450 Golden Gate Avenue, 16th Floor, San Francisco, California 94102, and (iii) be filed or postmarked on or before April 4, 2025.

If a Settlement Class Member is not an individual or sole proprietorship or is otherwise a separate business entity, it may be required to make its objection or appear at the final approval hearing through an attorney. Any Settlement Class Member who fails to file a timely objection shall have waived any right to object to the Settlement Agreement and shall not be permitted to object at the final approval hearing, unless the Court grants a rare exception for good cause, and shall be foreclosed from seeking any review of this settlement by appeal or other means.

XI. What is the effect of final settlement approval?

If the Court approves the proposed settlement after the final approval hearing, it will enter a judgment dismissing the Lawsuit with prejudice and releasing all claims as described in this paragraph. If you do not exclude yourself from the case, the proposed settlement will be your sole mechanism for obtaining any relief. All Settlement Class Members who do not timely elect to opt out of the proposed settlement, and each of their respective agents, administrators, employees, representatives, successors, assigns, trustees, joint venturers, partners, legatees, heirs, personal representatives, predecessors, and attorneys release and forever discharge Defendants and First Data Merchants Services, LLC and each of their respective former, present, and future direct and indirect parents, affiliates, subsidiaries, successors, and predecessors and all of their respective former, present, and future officers, directors, shareholders, indemnitees, employees, agents, representatives, attorneys, accountants, auditors, independent contractors, successors, trusts, trustees, partners, associates, principals, divisions, insurers, reinsurers, members, brokers, consultants, and vendors and all persons acting by, through, under, or in concert with them, or any of them, from any and all manner of actions, causes of action, claims, demands, rights, suits, obligations, debts, contracts, agreements, promises, liabilities, damages, charges, penalties, losses, costs, expenses, and attorneys' fees, of any nature whatsoever, known or unknown, in law or equity, fixed or contingent, which they have or may have arising out of, relating to, or in connection with the calls placed by Wholesale between October 22, 2014 and November 17, 2023 as described in the class definition set forth above ("Eligible Calls"), including but not limited claims for violation of CIPA, including but not limited to Section 632 and Section 632.7, or any other federal, state, or local statute, regulation, or common law relating to the Eligible Calls.

If the proposed settlement is not approved, the Lawsuit will proceed as if no settlement had been reached. There can be no assurance that if the settlement is not approved and the Lawsuit resumes that Settlement Class Members will recover more than what is provided for under the proposed settlement or will recover anything at all.

XII. Who are the lawyers for Plaintiffs and Settlement Class Members?

The following lawyers (“Class Counsel”) are serving as counsel for the Settlement Class:

Myron M. Cherry
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Jacie C. Zolna
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30 North LaSalle Street, Suite 2300
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(312) 372-2100 (telephone)
(312) 853-0279 (facsimile)

From the beginning of the case to the present, Class Counsel has not received any payment for their services in prosecuting the Lawsuit or in obtaining this proposed settlement, nor have they been reimbursed for any out-of-pocket costs they have incurred. Class Counsel will apply to the Court for an award of attorneys’ fees in the amount of no more than one-third (33.33%) of the Settlement Fund, as well as an additional amount for reimbursement of actual costs, which Class Counsel currently estimates will be between \$30,000-\$35,000. If the Court approves Class Counsel’s petition for fees and costs, it will be paid from the Settlement Fund. Settlement Class Members will not have to pay anything toward the fees or costs of Class Counsel. You do not need to hire your own lawyer because Class Counsel is working on your behalf and will seek final approval of the settlement on behalf of the Settlement Class Members. You may hire your own lawyer to represent you in this case if you wish, but it will be at your own expense.

Class Counsel may also petition the Court for incentive awards in the amount of \$7,500 each to the Settlement Class representatives who helped Class Counsel on behalf of the whole Settlement Class.

XIII. Where can I get more information about the Lawsuit?

This Notice summarizes the proposed settlement. For the precise terms of the settlement, please see the Settlement Agreement available at www.CallRecordingClassAction.com, by contacting the Settlement Administrator at admin@CallRecordingClassAction.com or 1-888-733-1544, by contacting Class Counsel listed above, by accessing the Court docket in this case, for a fee, through the Court’s PACER system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, 450 Golden Gate Avenue, 16th Floor, San Francisco, California 94102, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK’S OFFICE OR DEFENDANTS TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.

BY ORDER OF THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA