

SUPERIOR COURT OF THE STATE OF WASHINGTON, KING COUNTY

**If You Paid Money to Microsoft for an MSN Account Established
in Your Name at a Best Buy Store, Never Logged on to or
Used that Account, and Never Received a Full Refund for
the Money you Paid to Microsoft,
Please Read This Notice - It May Affect Your Rights**

The Court authorized this notice. This notice is not an advertisement from a lawyer.

Why did I receive this Notice? You received this Notice because Microsoft's records show that you (a) may have had an MSN Internet access account with an initial free-trial period established in your name at a Best Buy store, (b) did not ever log on to or use that account, (c) paid subscription fees to Microsoft for that account, and (d) did not receive a full refund of the charges.

A court has authorized or "certified" a class action lawsuit in which allegations are being made against Microsoft and Best Buy. To learn more about the claims and defenses in this lawsuit, read this notice in its entirety. The Court has not decided whether Microsoft and Best Buy have done anything wrong. There is no money available now, and no guarantee there will be. However, your legal rights are affected, and you have a choice to make now.

Your Legal Rights and Options in This Lawsuit

DO NOTHING	Stay in this lawsuit. Give up certain rights. By doing nothing, you keep the possibility of getting money or benefits that may come from a trial or a settlement. But you give up any rights to sue Microsoft and Best Buy separately about the same legal claims in this lawsuit. For more information, read this notice in its entirety.
ASK TO BE EXCLUDED	Get out of this lawsuit. Get no benefits from it. Keep rights. If you ask to be excluded and money or benefits are later awarded, you will not share in those. But you keep any rights to sue Microsoft and Best Buy about the same legal claims in this lawsuit. For more information about how to exclude yourself from this lawsuit, read this notice in its entirety.
ENTER AN APPEARANCE	Participate in the lawsuit on your own or through a lawyer. The Court has appointed lawyers to represent you. But you can, if you wish, appear in the lawsuit through your own lawyer or on your own. For more information, read this notice in its entirety.

- Your rights and options are fully explained below. To ask to be excluded, you must act before **September 24, 2006**.
- Plaintiffs must prove the claims against Microsoft and Best Buy at a trial. The trial has not yet been set. If money or benefits are obtained from Microsoft and Best Buy, you will be notified about how to ask for a share.
- Questions? You may call Class Counsel toll-free at 1-866-981-4800 to ask any questions about this lawsuit you may have.

<u>BASIC INFORMATION</u>	PAGE
1. Why did I receive a notice in the mail?	2
2. What is this lawsuit about?	3
3. Why is this lawsuit a class action and who is involved?	3
4. Why is this lawsuit a class action?	3
<u>THE CLAIMS IN THE LAWSUIT</u>	
5. What does this lawsuit ask for?	4
6. What do Microsoft and Best Buy say about the lawsuit?	4
7. Has the Court decided who is right?	4
<u>WHO IS IN THE CLASS</u>	
8. How do I know I am a part of this lawsuit?	4
9. Are there exceptions to being included?	4
10. I am still not sure if I am included.	4
<u>YOUR RIGHTS AND OPTIONS</u>	
11. What happens if I do nothing at all?	5
12. Why would I ask to be excluded?	5
13. How do I ask the Court to exclude me from the Class?	5
<u>THE LAWYERS REPRESENTING YOU</u>	
14. Do I have a lawyer in this case?	5
15. How will the lawyers be paid?	5
16. Should I get my own lawyer?	5
<u>THE TRIAL</u>	
17. How and when will the Court decide who is right?	6
18. Do I have to come to the trial?	6
19. Will I get money after the trial?	6
<u>GETTING MORE INFORMATION</u>	
20. Are more details available?	6

BASIC INFORMATION

1. Why did I receive a notice in the mail?

You received a notice because Microsoft's records show that you (a) may have had an MSN Internet access account with an initial free-trial period established in your name at a Best Buy store, (b) did not ever log on to or use that account, (c) paid subscription fees to Microsoft for that account, and (d) did not receive a full refund of the charges.

The notice you received explains that the Court has allowed, or "certified," a class action lawsuit that may affect you. You have legal rights and options that you may exercise before the Court holds a trial. The trial is to decide whether the claims being made against Microsoft and Best Buy, on your behalf, are correct. Judge Douglass North of the Superior Court of King County in Washington State is overseeing this class action. The lawsuit is known as *Odom and Moureaux-Maloney v. Microsoft Corporation and Best Buy Stores, Inc.*, Case No. 04-2-10618-4 SEA.

2. **What is this lawsuit about?**

This lawsuit is about whether Microsoft and Best Buy engaged in unfair business practices, in violation of Washington State law, in connection with the promotion of MSN Internet access service subscriptions at Best Buy stores. From 2000 to 2004, Microsoft and Best Buy promoted Microsoft's MSN Internet access service at Best Buy stores by offering MSN subscriptions with free-trial periods that ranged from one month to one year. Unless a registered consumer cancelled the trial subscription, Microsoft would begin charging the consumer's credit or debit card each month after the trial period was over even if the consumer had never logged on to or used the MSN service. Plaintiffs allege that requiring consumers to cancel subscriptions they never used to avoid being charged was unfair and deceptive and violated Washington State law. Microsoft and Best Buy deny that their business practices were unfair or deceptive, and also say that it was fair to ask Class Members to cancel their trial subscriptions to avoid being charged monthly fees. The Court has not decided who is right or wrong, but Class Members have to make a decision now whether to stay in the Class.

3. **Why is this lawsuit a class action and who is involved?**

In a class action lawsuit, one or more people called "Class Representatives" (in this case, James Odom and Katherine Moureaux-Maloney) sue on behalf of other people who have similar claims. The people together are a "Class" or "Class Members." The Class Representatives who sued Microsoft and Best Buy, James Odom and Katherine Moureaux-Maloney – and all the Class Members like them – are called the Plaintiffs. The companies they sued, in this case Microsoft and Best Buy, are called the Defendants. One court and one jury resolve the issues for everyone in the Class – except for those people who choose to exclude themselves from the Class.

4. **Why is this lawsuit a class action?**

The Court decided that this lawsuit can be a class action and move towards a trial because it meets the requirements of Washington Civil Rule 23, which governs class actions in Washington State court. Specifically, the Court concluded that:

- There are so many Class Members that bringing them together in one lawsuit was not practical (the Court ruled that "there is no dispute that the class numbers in the thousands");
- There are questions of law or fact common to all Class Members (the Court found that "Plaintiffs' allegations implicate allegedly unfair or deceptive conduct that encompasses Defendants' decision to structure their MSN trial promotion in such a way as to require individuals who never logged on to or otherwise used the service to call to terminate the trial subscriptions or be charged by Microsoft");
- The legal claims of the Class Representatives are typical of the claims of the Class Members;
- The lawyers and the Class Representatives will fairly and adequately represent Class Members;
- The common legal questions and factual questions will predominate over questions that are individual to each Class Member; and
- This class action will be superior to having many individual lawsuits.

The Court determined that, in order for the lawsuit to go forward as a class action, the Plaintiffs who brought the lawsuit will have to concede that customers were informed by "Welcome Kits" and "Terms and Conditions" sheets, and other disclosures, that they were signing up for MSN and that normal monthly fees would be automatically charged to their credit or debit cards each month after the end of the free-trial period unless they called the telephone number given to them to cancel their accounts before then. The Court further determined that the jury would then be asked to decide whether it is an unfair

practice to sign people up for MSN subscriptions in this fashion – i.e., in such a way that the burden is then placed upon them to call up and cancel it in order to avoid paying an MSN subscription fee. The Court could modify this order or make other orders in advance of trial regarding class certification. These orders could affect the chances that the Class will succeed at trial.

More information about why the Court is allowing this lawsuit to be a class action is in the Court's Order Certifying the Class, which can be viewed on the settlement website: www.msnclassaction.com.

THE CLAIMS IN THE LAWSUIT

5. What does this lawsuit ask for?

In this lawsuit, Plaintiffs ask for money damages for each person who, after December 1, 1999, (1) signed up through Best Buy for an MSN Internet access service subscription that included a free-trial period, and paid monthly charges after the free trial ended, and (2) never logged on to the service, and (3) did not receive a full refund.

6. What do Microsoft and Best Buy say about the lawsuit?

Microsoft and Best Buy deny that they engaged in any unfair or deceptive business practices, and say they did not do anything wrong or improper. They say that they gave consumers from one to twelve months of free MSN Internet access service worth \$21.95 per month, and that they fully informed customers about the terms of the subscription. They also say that it was fair to ask customers to call to cancel before the free-trial period ended if they wanted to avoid charges.

7. Has the Court decided who is right?

The Court has not decided whether the Plaintiffs or Microsoft and Best Buy are correct. By establishing the Class and issuing this Notice, the Court is not suggesting that the Plaintiffs will win or lose this case. The Plaintiffs must prove their case at trial, which has not yet been scheduled.

WHO IS IN THE CLASS

8. How do I know if I am a part of this lawsuit?

You are a Class Member if all of the following apply:

- 1) You are a person in the United States who, at any time from December 1, 1999 to the present, paid Microsoft after the end of a free-trial period for charges in connection with a MSN Internet access service account;
- 2) The account was established in your name at a Best Buy store;
- 3) You never logged on to the MSN Internet access account, and
- 4) You did not receive a full refund for the charges you paid.

9. Are there exceptions to being included?

Yes. Excluded from the class are Defendants, any entity in which any Defendant has a controlling interest, Defendants' officers, directors, and employees, Defendants' legal representatives, heirs, successors, and assigns, any judge to whom the case is assigned and his or her immediate family, and any person who timely and validly excludes himself or herself from the Class.

10. I'm still not sure if I am included.

If you are still not sure whether you are included, you can call Plaintiffs' Class Counsel toll free at 1-866-981-4800, write Class Counsel an email at msnlawsuit@girardgibbs.com, or write to MSN Class Action, P.O. Box 91188, Seattle, WA 98111-9288.

YOUR RIGHTS AND OPTIONS

You have to decide whether to stay in the Class or whether to exclude yourself before a possible trial, and you have to decide this no later than September 24, 2006.

11. What happens if I do nothing at all?

You do not have to do anything now if you want to keep the possibility of getting money or benefits from this lawsuit. By doing nothing you are staying in the Class. If you stay in the Class and the Plaintiffs obtain money or benefits, either as a result of the trial or a settlement, you will be notified about how to apply for a share. Keep in mind that if you do nothing now, regardless of whether the Plaintiffs win or lose the trial, you will not be able to sue, or continue to sue, Microsoft or Best Buy – as part of this or any other lawsuit – about the same legal claims that are the subject of this lawsuit. You will also be legally bound by all of the Orders the Court issues and judgments the Court makes in this class action.

12. Why would I ask to be excluded?

You may choose to exclude yourself for any reason. You do not have to explain your reason to anyone. If you exclude yourself from the Class – which also means to remove yourself from the Class, and is sometimes called "opting-out" of the Class – you will not get any money or benefits from this lawsuit even if the Plaintiffs obtain them as a result of a trial or from any settlement (that may or may not be reached) between Plaintiffs and Microsoft and Best Buy. If you exclude yourself, you will not be legally bound by the Court's judgments in this class action.

If you have already brought your own lawsuit against Microsoft and Best Buy and want to continue with it, you need to ask to be excluded from this Class.

13. How do I ask the Court to exclude me from the Class?

To exclude yourself, you must send an "Exclusion Request" in the form of a letter sent by mail, stating that you want to be excluded from *Odom v. Microsoft and Best Buy*. Be sure to sign the letter and include your name, address and phone number. You must mail your Exclusion Request postmarked by September 24, 2006, to MSN Class Action, P.O. Box 91188, Seattle, WA 98111-9288.

THE LAWYERS REPRESENTING YOU

14. Do I have a lawyer in this case?

Yes. The Court has appointed Daniel C. Girard, Sheri L. Kelly and their law firm Girard Gibbs LLP (www.girardgibbs.com), of San Francisco, CA; Beth E. Terrell, Toby J. Marshall and their law firm Tousley Brain Stephens PLLC (www.tousley.com), of Seattle, WA; and Anthony K. Lee, attorney at law, of San Francisco, CA to represent you as "Class Counsel." You do not have to pay Class Counsel. If you want to be represented by your own lawyer, and have the lawyer appear in court for you in this case, you may hire one at your own expense.

15. How will the lawyers be paid?

If Class Counsel obtains money or benefits for the Class, they may ask the Court for fees and expenses. You do not have to pay these fees and expenses. The Court can either order Microsoft and Best Buy to pay the attorneys' fees or it can order that the fees be paid out of any money recovered for the Class.

16. Should I get my own lawyer?

You do not need to hire your own lawyer because Class Counsel is working on your behalf. But if you want your own lawyer, you will have to pay for that lawyer. For example, you can ask him or her to appear in Court for you if you want someone other than Class Counsel to speak for you.

If you want to participate or speak for yourself in this lawsuit, your lawyer or you must give the Court a paper that is called a “Notice of Appearance.” Your Notice of Appearance should contain the name and number of the lawsuit, and state that you wish to enter an appearance in the lawsuit.

The Notice of Appearance must be mailed to the Clerk of Court at the following address:

Clerk of Court
King County Courthouse
516 Third Ave., Room E-609
Seattle, WA 98104

Please note: You must also mail a copy of your Notice of Appearance to MSN Class Action, P.O. Box 91188, Seattle, WA 98111-9288.

THE TRIAL

17. How and when will the Court decide who is right?

If the case is not dismissed or settled, the Plaintiffs will have to prove their claims at a trial. No date has been set for the trial. During the trial, the Judge, and/or a Jury, will hear all of the evidence, so that a decision can be reached about whether the Plaintiffs or Microsoft and Best Buy are right about the claims in the lawsuit. There is no guarantee that the Plaintiffs will win any money or benefits for the Class.

18. Do I have to come to the trial?

You will not need to attend unless you choose to do so or you are asked to attend by the Court. Class Counsel will present the case for the Plaintiffs, and the lawyers for Microsoft and Best Buy will present their defenses. You and/or your own lawyer are welcome to come, at your own expense.

19. Will I get money after the trial?

If the Plaintiffs obtain money or benefits as a result of the trial or a settlement, and you have not excluded yourself from the Class, you will be notified about how to participate. Currently there is no trial date. We do not know how long this will take.

GETTING MORE INFORMATION

20. Are more details available?

For more information, you can call the attorneys appointed to represent the class at 1-866-981-4800. You can also contact Class Counsel by e-mail at msnlawsuit@girardgibbs.com or write them at MSN Class Action, P.O. Box 91188, Seattle, WA 98111-9288.