

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND FAIRNESS

This notice contains important information if your Social Security retirement, survivors, or disability insurance benefits, Special Veterans Benefits (SVB), or Supplemental Security Income (SSI) payments have been suspended or denied, or if you have not been permitted to serve as a representative payee to beneficiaries of those programs on the ground that you were “fleeing to avoid prosecution or custody or confinement after a conviction” for a felony.

A court has preliminarily approved a settlement of a class action lawsuit on this issue. The case, called *Martinez v. Astrue*, is pending in federal district court in Oakland, California.

The Court has set a fairness hearing to consider a proposed settlement of the claims that have been brought on your behalf in this lawsuit. The hearing is scheduled to be held on September 24, 2009 at 2:00 p.m. at the following address:

Honorable Claudia Wilken
Courtroom 2
United States District Court of Northern California
1301 Clay St.
Oakland, CA 94612

Because the date and time of that hearing may change, please check with the Court prior to attending the hearing.

The settlement in this case does not concern people whose benefits may have been suspended or denied because of a warrant based on a violation of probation or parole.

This class action settlement could affect your rights. Please read below for more information, or call the National Senior Citizens Law Center 510-663-1055 ext. 301.

This notice has three purposes: 1) to tell you about the proposed settlement and the fairness hearing; 2) to tell you how to obtain more information, including a copy of the full proposed settlement agreement; and 3) to explain how you may object to the proposed settlement if you disagree with it.

Plaintiffs claimed that the Social Security Administration (SSA) should not suspend or deny SSI, SVB, or Social Security benefits or payments, or refuse to allow people to serve as representative payees, solely on the basis of an outstanding felony arrest warrant. The parties have reached a tentative settlement that the Court has preliminarily approved. The sections below explain some of the key provisions of the tentative settlement.

You may be a Settlement Class Member if your SSI, SVB, or Old Age, Survivors, and Disability Insurance (OASDI) benefits have been suspended or denied, or you are threatened with the suspension or denial of these benefits, based on an outstanding felony

arrest warrant. If you were not permitted to serve as a representative payee for this same reason, you may also be in the Settlement Class.

The Settlement Class does not include people who have already received a final federal court decision in an individual action regarding SSA's fugitive felon policy.

THIS IS A SUMMARY OF THE PROPOSED AGREEMENT. TO UNDERSTAND IT FULLY, YOU SHOULD READ THE ENTIRE AGREEMENT. The following description summarizes the key points in the proposed settlement agreement. You can read the entire proposed settlement agreement at SSA's website, at www.socialsecurity.gov/martinezsettlement and on the website of the National Senior Citizens Law Center at <http://www.nslc.org/areas/social-security-ssi/Martinez-Settlement/Court-Documents>.

April 1, 2009 Change in SSA Policy. Effective April 1, 2009, SSA changed its policy. SSA will suspend or deny benefits based on outstanding felony arrest warrants for only the crimes of flight to avoid prosecution or confinement, escape from custody, and flight-escape. SSA will also apply the new policy when it considers a person's request to serve as a representative payee. SSA may still use warrant information when it decides whether or not a person is suitable to serve as a representative payee.

Benefits for "Post-2006" Settlement Class Members. For Settlement Class Members whose benefits were suspended or denied or had an administrative appeal determination on or after January 1, 2007, or who had administrative claims challenging the suspension of their benefits pending on August 11, 2008, SSA will reinstate benefits and pay benefits that it withheld back to the first month of the Class Member's suspension. SSA will also repay any sums that it collected because it found that the Class Member had been overpaid benefits under the previous policy. SSA will also reinstate benefits for Class Members who get SSI, but it will also redetermine the Class Member's non-medical eligibility criteria under its usual policies. After it reinstates benefits or payments to Settlement Class Members, SSA may do continuing disability reviews under its usual policies. SSA will notify Post-2006 Settlement Class Members at the time it takes these actions with individual notices mailed to the address on SSA records.

Benefits for "Pre-2007" Settlement Class Members. For Settlement Class Members whose benefits were suspended or denied between January 1, 2000 and December 31, 2006, and who did not have live administrative claims on August 11, 2008, SSA will stop collecting overpayments and will remove any remaining overpayment balance based on the previous policy. SSA will notify Pre-2007 Settlement Class Members of the settlement by a mailing to the address in SSA's records. For Class Members who were not receiving benefits as of April 1, 2009, the notice will advise that they may file a new application for benefits. If they do so within six months from the date of their notices, SSA will use an application date of April 1, 2009 as the protective filing date in reviewing the claim.

Class Members whose benefits were suspended or denied prior to January 1, 2000 may reapply under the new policy, but will not receive a mailed notice or a protective filing date.

Release of Claims. Class Members will agree to release all claims relating to the subject matter of this case that could have been asserted in the *Martinez* complaint against SSA.

The Court must first finally approve the settlement. After final approval, SSA will begin steps to fulfill the terms of the settlement. Due to the size and complexity of the settlement, SSA requires some time to complete the terms. Currently, SSA plans to provide relief in phases, which are expected to conclude at the end of 2010. This timeframe is subject to change.

Do not contact SSA about reinstatement of benefits or overpayment relief provided by this settlement. SSA will notify individuals affected by the settlement after final court approval.

IF YOU AGREE with the proposed settlement, you do not need to do anything at this time. If you wish to attend, you may be present at the public hearing on the proposed settlement as stated above.

IF YOU DISAGREE with the proposed settlement, you have a right to object to it. Your objections will be considered by the Court as it reviews the settlement ONLY IF you follow these procedures. **You must submit objections in writing to the Court at the address above. Your objections must be received by September 10, 2009.**

ALL OBJECTIONS MUST CONTAIN THE FOLLOWING INFORMATION:

- a) Name, address, and telephone number of the person filing the objection.
- b) A statement of the reasons for the objection.
- c) A statement that copies of the objections have also been sent to the attorneys listed at the end of this notice.

Because this is a mandatory class under Federal Rule of Civil Procedure 23(b)(2), individual Settlement Class Members cannot exclude themselves from the Settlement Class.

If you have any questions about the lawsuit or the tentative settlement, please call the National Senior Citizens Law Center 510-663-1055 ext. 301.

For the Plaintiffs:

Gerald A. McIntyre
National Senior Citizens Law Center
3435 Wilshire Boulevard, Suite 2860
Los Angeles, CA 90010-1938
Telephone: (213) 674-2900
Fax: (213) 639-0934

For the Defendant:

Victoria R. Carradero
Assistant United States Attorney
450 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102-3495
Telephone: (415) 436-7000
Fax: (415) 436-6748