

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

Janet Long, individually and on behalf )  
behalf of all others similarly situated, )  
Plaintiff, )  
v. )  
Fenton & McGarvey Law Firm, P.S.C., )  
a Kentucky corporation, and Jefferson )  
Capital Systems, LLC, a Georgia limited )  
liability company, )  
Defendants. )

No. 1:15-cv-1924-LJM-DKL

**NOTICE OF CLASS ACTION**

**To: All persons similarly situated in the State of Indiana from whom Defendants attempted to collect a delinquent consumer debt allegedly owed for a Comenity Bank credit card account, via the form collection letter that was sent to Plaintiff, from December 7, 2014 to the present.**

**NOTICE IS HEREBY GIVEN THAT**, by an order of the United States District Court for the Southern District of Indiana, Indianapolis Division (the "Court"), dated February 23, 2017, it was determined that the lawsuit may be settled on behalf of a class of persons (the "Class") pursuant to Fed. R. Civ. P. 23(b)(3), which is defined as set forth above.

**YOU HAVE NOT BEEN SUED IN THIS MATTER.** This letter is a notice that you may be entitled to a monetary recovery as a member of the Class. You have been identified from the records of Fenton & McGarvey Law Firm, P.S.C. ("Fenton") and Jefferson Capital Systems, LLC ("Jefferson")(collectively the "Defendants"), as being a potential member of the class who received a collection letter similar to the letter that Plaintiff received that is attached to this notice. If you received the attached form collection letter from Defendants, your rights may be affected by this lawsuit. This Notice is given to inform you about this lawsuit so that you may have an opportunity to comment on the proposed settlement or opt-out of the proposed class.

**NATURE OF THIS LAWSUIT**

**A. Summary of the Litigation**

Plaintiff, Janet Long, filed the Complaint in this matter on December 7, 2015, alleging that the Letter she received violated § 1692g(a)(2) of the Fair Debt Collection Practices Act ("FDCPA"), alleging that Defendants failed to identify effectively the current creditor. Plaintiff's lawsuit alleged that Defendants violated the FDCPA, which entitled her to recover statutory damages, costs and attorneys' fees from Defendants. Defendants filed a motion to dismiss the Complaint because they claimed Plaintiff lacked standing and also moved for partial judgment on the pleading because the claims were not actionable. On December 9, 2016, the Court denied those motions. Moreover, on December 14, 2016, the Court

granted Plaintiff's motion to certify a class in this matter.

Defendants do not admit that they violated the FDCPA. In fact, Defendants deny that they have any liability to Plaintiff or the Class whatsoever, and further deny that their actions violated the FDCPA in any manner.

The description of Plaintiff's claims and Defendants' response is general and does not cover all of the claims and contentions of the parties. For a complete statement of all the contentions and proceedings in this case, you should consult the files relating to this lawsuit, which are available for your inspection at the Clerk of the United States District Court for the Southern District of Indiana, 46 E. Ohio Street, Indianapolis, Indiana 46204.

The maximum damages recoverable in a class action under the FDCPA are limited by law to up to 1% of the net worth of the Defendants or \$500,000, whichever is less. In this case, Defendants are subject to the statutory maximum of \$500,000. Moreover, the class in this matter consists of about 562 persons who received the same form collection letter.

**B. Certification of the Class**

This Court previously certified a class, pursuant to Fed. R. Civ. P. 23(b)(3), defined as set forth above, and appointed Plaintiff, Janet Long, as representative of the Class, and her attorneys, David J. Philipps, Mary E. Philipps and Angie K. Robertson of Philipps & Philipps, Ltd., and John T. Steinkamp, as Counsel for the Class. You have been identified as a person who may also be within this group of plaintiffs and are entitled to recover an award of damages.

**C. Settlement of the Lawsuit**

Plaintiff and Defendants have agreed to a proposed settlement that provides:

1. Change the form of the collection letter;
2. Defendant Jefferson shall retire each class members Comenity account and cease collection efforts (a total value of approximately \$550,000 in accounts);
3. Defendant Fenton shall pay \$25,000 to the Class, to be distributed on a pro-rata basis to each class member who: does not exclude himself or herself from this action and who returns a claim form; all funds that are not distributed to, or claimed by, the Class shall be paid to the Indiana Legal Services, Inc., as a cy pres remedy;
4. Defendant Fenton shall pay \$1,000 to the Plaintiff;
5. Defendant Fenton shall pay, separate from the amounts identified above, \$108,000 for the costs of the action, together with the attorneys' fees, which will be requested in a separate motion, a copy of which will be available to you upon request;
6. Plaintiff will dismiss her lawsuit with prejudice and all class members' claims against Defendants Fenton and Jefferson will be released.

By proposing to settle this lawsuit, Defendants have not admitted liability, nor has the Court found that the claims asserted by Plaintiff in this case are valid or that there has been any wrongdoing or violation of law. The Court is expressing no opinion on the merits of the

case or the terms of the settlement. The Court will later conduct a hearing to determine whether the proposed settlement is fair, reasonable, and adequate under the circumstances, at the time and place indicated below.

**D. Your Options**

**MAKE A CLAIM:**

**If you are a member of the Class and wish to participate in this settlement, you should return the enclosed claim form by April 28, 2017. Regardless of whether you file a claim, your Comenity debt will be eliminated so long as you do not exclude yourself or opt-out of the this matter.**

**BRING YOUR OWN CASE:**

You have the right to bring your own individual action, in which case a court could award you statutory damages in the range of \$0 to \$1,000, plus any actual damages. However, there is no guarantee that a court would award you any damages.

**OPT-OUT:**

You also have the right to exclude yourself from both the settlement and the class action by sending a written request for exclusion to Class Counsel at the address listed below. The request for exclusion must be received by April 28, 2017, and must contain your name, address, and the name and number of this case. It is your responsibility to make sure that your request for exclusion is timely delivered. If you exclude yourself from this action, you will not be entitled to share in the settlement fund.

**HIRE YOUR OWN ATTORNEY:**

If you are a member of the Class, you have the right to be represented in this action by your own attorney.

**OBJECT OR COMMENT:**

You also have the right to file a written objection or comment on the proposed settlement. Your objection or comment must state your name, address, the case name and number, why you are objecting or commenting to the proposed settlement, and any reasons supporting your position, along with any documents that support your position. You must sign your objection personally. If you choose to make a written objection or comment, it is your responsibility to make sure that your objection is delivered on or before April 28, 2017, to Class Counsel and Defendants' Counsel at the following addresses:

Class Counsel:  
David J. Philipps  
Philipps & Philipps, Ltd.  
9760 S. Roberts Road, Suite One  
Palos Hills, Illinois 60465

Defendants' Counsel:  
James C. Vlahakis  
Hinshaw & Culbertson, LLP  
222 North LaSalle Street, Suite 300  
Chicago, Illinois 60601

You also have the right to make an oral objection or comment at the fairness hearing, as listed below, regardless of whether you filed a written objection or comment.

NOTICE IS HEREBY GIVEN THAT a hearing will be held before the Honorable Judge Larry J. McKinney of the United States District Court for the Southern District of Indiana, on May 31, 2017, at 11:00 a.m., in Courtroom 246 of the United States District Court, 46 E. Ohio Street, Indianapolis, Indiana 46204. This hearing will be held to determine if the proposed settlement is fair, reasonable, and adequate and should be approved and the lawsuit dismissed. If the proposed settlement is approved, it will be binding and will release all claims relating to the class members, including those that were asserted or could have been asserted in this lawsuit.

Questions concerning this class action litigation should be directed to Philipps & Philipps, Ltd., 9760 S. Roberts Road, Suite One, Palos Hills, Illinois 60465, (708) 974-2900.

**PLEASE DO NOT CALL, OR OTHERWISE CONTACT,  
THE JUDGE OR THE COURT CLERK**

ENTER:  
/s/ Judge Larry J. McKinney  
JUDGE LARRY J. MCKINNEY,  
United States District Court

DATED: February 23, 2017

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**CLAIM FORM**

Long v. Fenton, etal, No. 1:15-cv-1924-LJM-DKL

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

**PLEASE RETURN THIS FORM BY April 28, 2017, TO:**

Philipps & Philipps, Ltd.  
9760 S. Roberts Road  
Suite One  
Palos Hills, Illinois 60465  
Attn: Long v. Fenton

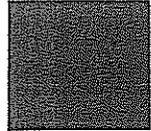
FENTON & McGARVEY LAW FIRM, P.S.C.  
2401 Stanley Gault Parkway  
Louisville, Kentucky 40223  
Toll Free: 800-345-0986

Phone: 502-560-6700

Fax: 502-560-6800

August 19, 2015

[REDACTED]  
[REDACTED]  
[REDACTED] IN [REDACTED]



Dear [REDACTED]:

Please be advised that Fenton & McGarvey Law Firm, P.S.C. has been retained by Jefferson Capital Systems, LLC to collect its account with you. Your balance, as of the date of this letter, is \$ [REDACTED]

ORIGINAL CREDITOR:	COMENITY BANK
ACCOUNT NUMBER:	Ending in [REDACTED]
CURRENT BALANCE DUE:	\$ [REDACTED]
OUR FILE NUMBER:	[REDACTED]

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days of receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you provide a written request within 30 days of receiving this notice, this office will provide you with the name of and address of the original creditor, if different from the current creditor.

At this time, no attorney with this firm has personally reviewed the particular circumstances of your account. Our office does not leave voicemail messages unless we have your specific permission to do so. We may continue to attempt to contact you, however we encourage you to call us at the number listed above. If you reach our answering service, please specifically state the number at which you may be reached and that we may leave a voicemail message for you.

**This communication is from a debt collector and is an attempt to collect a debt. Any information obtained will be used for that purpose.**

Sincerely,

Non-Attorney Account Administrator  
for Fenton & McGarvey Law Firm, P.S.C.

Online Payment Available: <https://fandm.accountpayment.net>

