

SUFFOLK SUPERIOR COURT

Civil Action No. 07-1294-BLS2

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ANN MARIE CHIARADONNA, et al.

Plaintiff,

vs.

ARBELLA MUTUAL INSURANCE  
COMPANY, et al.,

Defendants

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**NOTICE OF CLASS ACTION SETTLEMENT AND APPROVAL HEARING**

**To: All persons who obtained an arbitration award between March 26, 2001 and the present, against Arbella Mutual Insurance Company or against one of its insureds.**

**THIS NOTICE DESCRIBES HOW YOU MAY OBTAIN A MONETARY AWARD AND YOUR OTHER OPTIONS WITH RESPECT TO THIS CLASS ACTION.**

**Summary Description of Action and Settlement**

This notice explains the settlement of a class action lawsuit against Arbella Mutual Insurance Company (hereinafter "Arbella") in which the plaintiff alleges that Arbella wrongfully failed to pay interest on arbitration awards in the Commonwealth of Massachusetts. The settlement agreement has been preliminarily approved by the Court and provides for payment of post-award interest, plus interest on that interest, to those individuals who obtained an arbitration award against Arbella or one of Arbella's insureds under a Massachusetts automobile insurance policy from March 26, 2001 to the present, with the exception of those individuals who obtained arbitration awards against Arbella or one of its insureds in connection with third-party claims and who executed releases of Arbella or one of its insureds subsequent to the date of their arbitration award.

**PLEASE NOTE THAT IF YOU HAVE PREVIOUSLY RECEIVED A CHECK FROM ARBELLA FOR POST-AWARD INTEREST ON YOUR ARBITRATION AWARD, YOU WILL NOT RECEIVE AN ADDITIONAL PAYMENT UNDER THE SETTLEMENT.**

**PLEASE TAKE NOTICE THAT on Thursday July 15, 2010, in Courtroom 907 of the Suffolk Superior Court, 3 Pemberton Square, Boston, Massachusetts, at 2:00 p.m., a hearing shall be conducted to determine whether to grant final approval to the Settlement Agreement, consider any timely objections to the settlement and rule on the fee application submitted by attorneys for the plaintiff in this class action lawsuit.**

**No payments will be made available until after the Settlement has become final and non-appealable.**

Read this notice carefully. You may be entitled to share in the settlement proceeds of this class action lawsuit. Your rights to a monetary award may be affected.

**In the following notice, you are being told about the features of the proposed settlement, and asked to decide whether you would like to oppose the settlement.**

**1. Why did you receive this notice?**

This notice has been mailed to you because you have been identified as a member of a group of individuals (a class) for whom a settlement with Arbella has been reached. Arbella's records indicate that you have been paid an arbitration award obtained against Arbella or against one of its insureds between March 26, 2001 and the present, and you may be eligible to receive unpaid interest on the award.

**2. Who are the parties in this class action?**

Ann Marie Chiaradonna is the named plaintiff. She contends that Arbella did not pay post-award interest on an arbitration award she obtained against Arbella. Ms. Chiaradonna filed this lawsuit as a class action to assert her own individual claim and to represent a class of persons who have similar claims. The defendant is Arbella. The lawsuit is pending in the Business Litigation Session 2 of the Suffolk Superior Court.

**3. Who are the members of the class?**

The class consists of all persons who obtained arbitration awards against Arbella or Arbella insureds under Massachusetts automobile insurance policies from March 26, 2001 to the present. Settlements and judgments are not arbitration awards and do not create class membership.

The class does not include persons who obtained arbitration awards against Arbella or Arbella insureds during the relevant period in connection with third-party claims and who executed releases of Arbella or its insureds subsequent to the date of the arbitration award.

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

Plaintiff claims that Arbella did not pay post-award interest on arbitration awards. Post-award interest is interest paid on the award between the date of the award and the date of payment. Plaintiff alleges that the payment of post-award interest is required by law.

Arbella contends that it made all of its arbitration award payments promptly and that it did not engage in unfair or deceptive practices.

Based on the information available to both sides, and the risks involved in a trial, attorneys for the class have concluded that the proposed settlement is fair, reasonable, and adequate, and that it serves the best interests of class members.

**5. What compensation will the settlement provide?**

The settlement, if it is finally approved by the Court, provides the following:

- a. Arbella will pay post-award interest in an amount equal to interest at the rate of 12% per annum for the period between the date of the arbitration award and the date on which Arbella issued the check for payment of the arbitration award.
- b. Arbella will pay interest at the rate of 12% per annum on the amount identified in Paragraph 5(a), for the period commencing on the date Arbella issued the check for payment of the arbitration award and ending upon the date Arbella mails payment to the class under the Settlement.

No benefits will be made available until after approval of the settlement by the Court becomes final. Once the settlement becomes final, you will receive payment.

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In addition, going forward, Arbella has agreed to institute a policy whereby post-award interest will be paid at the amount of 12% per annum, on all Arbitration Awards. However, no post-award interest need be paid by Arbella i) in the event the payment was upheld because of liens or other circumstances beyond Arbella's control, such as where payment information is not promptly provided by claimant or claimant's counsel, or where claimant's counsel otherwise requests or causes the delay, ii) in the event that an arbitration agreement is signed prior to the hearing, wherein the claimant explicitly waives any right he/she may have to post-award interest, or iii) in the event that the claimant signs a release after the date of the Arbitration Award wherein the claimant agrees explicitly to waive any right he/she may have to post-award interest. Arbella reserves the right to change this policy to reflect changes in the law.

**6. Do you need to complete any form to get payment?**

No. If you are entitled to a payment under paragraph 5, then your check will be sent to the same address to which this Notice was sent. **IF YOU MOVE, PLEASE CALL 1-800-287-8119 IN ORDER TO PROVIDE PLAINTIFFS' COUNSEL WITH YOUR NEW ADDRESS.**

**7. How much money will the attorneys be paid and who will pay it?**

Plaintiff's counsel intends to apply for an award of fees and expenses not to exceed \$75,000 with respect to their representation of Plaintiff and the class. Arbella will not oppose the application of plaintiff's counsel with respect to fees and expenses provided that the application does not exceed \$75,000.

The Court will determine the amount of any fees and expenses awarded to plaintiff's counsel. None of the fees and expenses awarded to plaintiff's counsel will be deducted from the payments made to the class.

**8. Will the named plaintiff who pursued this lawsuit on behalf of the class receive anything in addition to the benefits provided to the other members of the class?**

No.

**9. What are your options?**

As a member of the class, you have the following options:

- If you wish to participate in the settlement, you do not have to do anything.
- If you disagree with any part of the settlement or the request for attorneys' fees or expenses, you may file an objection as described below.

**PLEASE NOTE THAT IF YOU HAVE PREVIOUSLY RECEIVED A CHECK FROM ARBELLA FOR POST-AWARD INTEREST ON YOUR ARBITRATION AWARD, YOU WILL NOT RECEIVE AN ADDITIONAL PAYMENT UNDER THE SETTLEMENT**

**10. How do you file an objection?**

If you wish to object to the any part of the settlement or the request for attorneys' fees or expenses, you must state your objection in writing and file it with the Court postmarked no later than June 19, 2010. The objection should be addressed to the Clerk for Civil Business, Business Litigation Session 2, Suffolk Superior Court, 3 Pemberton Square, Boston, Massachusetts, 02108 and marked to indicate "objections to proposed settlement in Chiaradonna, et al. v. Arbella Mutual Insurance Company, Civil Action No. 07-1294-BLS2." Additionally, if you or your attorney intend to object at the Final Approval Hearing, you must file with the Court and serve Class Counsel and Defendant's Counsel with a notice of intention to appear no later than July 1, 2010.

**You must simultaneously mail your objection to plaintiff's attorneys:**

Thomas G. Shapiro, Esq.  
Shapiro Haber & Urmey LLP  
53 State Street  
Boston, MA 02109  
(800) 287-8119

John R. Yasi, Esq.  
Yasi & Yasi  
Two Salem Green  
Salem, MA 01970  
(978) 741-0400

**And to defendant's attorneys:**

Roberta R. Fitzpatrick, Esq.  
Law Office of Roberta Fitzpatrick  
101 Arch Street, Suite 1761  
Boston, MA 02110

Included in any such objection must be a statement of the basis for your objection. If you do not properly file and serve an objection by the required date, any objections you may have to the settlement will be waived.

**11. When will the Court conduct the Approval Hearing?**

The Court will conduct a public hearing to determine whether to approve the proposed settlement on July 15, 2010, in Courtroom 907 at Suffolk Superior Court, 3 Pemberton Square, Boston, Massachusetts. Although the hearing will be open to the public, you will not be permitted to speak in opposition to the issues above at the hearing unless you have filed a timely objection to the settlement or the attorneys' fees in the manner described above. If you have filed an objection, you may appear with or without your own counsel and be heard at the hearing.

**12. Where can you get additional information?**

This notice provides only a summary of matters regarding the lawsuit. The documents, settlement agreement and orders in the lawsuit provide greater detail and may clarify matters that are described only in general or summary terms in this notice. Copies of the settlement agreement, other documents, court orders and other information related to the lawsuit may be obtained from plaintiff's attorneys identified in paragraph 10 above. You should direct any inquiries concerning a claim or other matters described in this notice to plaintiff's attorneys.

If you wish, you may seek the advice and guidance of your own attorney, at your own expense.

**Please do not contact the Court, Counsel for Arbella or any Arbella representative for information.**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Superior Court