

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

**If you resided in any of the properties in North Carolina owned and/or managed by PALMS ASSOCIATES, LLC and/or DURHAM MEWS, LLC f/k/a DURHAM SECTION I ASSOCIATES, you may be entitled to benefits from a class action Settlement.**

*A Federal Court authorized this Notice. This is not a solicitation from a lawyer.*

- This Notice informs you of a proposed settlement in a class action lawsuit filed by Jessica Johnson (the “Plaintiff”) against Palms Associates, LLC, and Durham Mews, LLC, f/k/a Durham Section I Associates (the “Defendants”). Plaintiff alleged that Defendants unlawfully charged and threatened certain fees when filing summary ejectment/eviction actions against their tenants at the apartment complexes of varying names that Defendants own, owned, manage, or managed in North Carolina. The Settlement resolves the lawsuit. Defendants deny that they did anything wrong or unlawful, including denying any liability to Plaintiff or to the members of the Settlement Classes.
- If you are included in the Settlement, you may qualify to receive compensation. The amount of compensation is dependent on whether you are a member of the Collection Letter Class or Eviction Fee Class.
  - **Collection Letter Class Members**. If you are a natural person who (a) at any point between October 7, 2016, and June 25, 2018, (b) resided in any of the properties in North Carolina owned and/or managed by Defendants and (c) received a Collection Letter, then you are a member of the Collection Letter Class.
  - **Eviction Fee Class Members** If you are a natural person who (a) at any point between October 7, 2016, and June 25, 2018, (b) resided in any of the properties in North Carolina owned and/or managed by Defendants and (c) were charged and (d) paid Eviction Fees, then you are a member of the Eviction Fee Class.
  - See Question 5 for a detailed explanation of the Classes.
- **Please see the chart on the next page which provides a quick reference guide to the deadlines and obligations of Class Members for each Class described above.**
- **If you are a member of the Class, your legal rights are affected whether you act or do not act. Read this Notice carefully.**

## YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

COLLECTION LETTER CLASS	
<b>SUBMIT A CLAIM FORM BY April 14, 2023</b>	If you wish to receive benefits from the Settlement, you must submit a valid and timely Claim Form.
<b>EXCLUDE YOURSELF BY April 14, 2023</b>	You will receive no payment from the Settlement. This is the only option that allows you to ever be a part of any other lawsuit against the Defendants about the legal claims in this case.
<b>OBJECT BY April 14, 2023</b>	Write to the Court about why you think the Settlement is unfair, inadequate, or unreasonable.
<b>GO TO A HEARING ON June 14, 2023 AT 2:00 PM</b>	Ask to speak in Court about the fairness of the Settlement.
<b>FILE A NOTICE OF INTENT TO APPEAR BY April 14, 2023</b>	Your Notice of Intent to Appear in Court at the Hearing must be filed with the Court and served on Class Counsel and Defendants' Counsel no later than this date.
<b>DO NOTHING</b>	Get no payment. Give up rights to ever sue the Defendants about the legal claims in this case.
EVICITION FEE CLASS	
<b>DO NOTHING</b>	You will remain a member of the Eviction Fee Class and will automatically receive a Settlement Benefit. Members of this Class do not need to file a Claim unless they are also members of the Collection Letter Class.
<b>EXCLUDE YOURSELF BY April 14, 2023</b>	You will receive no payment from the Settlement. This is the only option that allows you to ever be a part of any other lawsuit against the Defendants about the legal claims in this case.
<b>OBJECT BY April 14, 2023</b>	Write to the Court about why you think the Settlement is unfair, inadequate, or unreasonable.
<b>GO TO A HEARING ON June 14, 2023 AT 2:00PM</b>	Ask to speak in Court about the fairness of the Settlement.
<b>FILE A NOTICE OF INTENT TO APPEAR BY April 14, 2023</b>	Your Notice of Intent to Appear in Court at the Hearing must be filed with the Court and served on Class Counsel and Defendants' Counsel no later than this date.

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice. The deadlines may be moved, canceled, or otherwise modified, so please check the Settlement Website, [www.ncpalmstenantsclass.com](http://www.ncpalmstenantsclass.com) regularly for updates and further details.
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made if the Court approves the Settlement and after any appeals are resolved. Please be patient.

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## BASIC INFORMATION

**1. Why is there a notice?**

You have a right to know about a proposed Settlement of a class action lawsuit, and about your options, before the Court decides whether to approve the Settlement.

The Court in charge of this case is the Honorable William J. Osteen, Jr., a United States District Court Judge who was assigned this case, and the case is called *Jessica Johnson v. Palms Associates, LLC, and Durham Mews, LLC f/k/a Durham Section I Associates*, Case No. 1:20-cv-1094 (United States District Court for the Middle District of North Carolina). The individual who sued is called the Plaintiff or Class Representative, and the companies being sued are called the Defendants.

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

The lawsuit alleges that the Defendants unlawfully charged complaint filing fees, sheriff service fees, and attorneys' fees ("Eviction Fees") when filing summary ejectment/eviction actions against their tenants. Plaintiff also alleged that Defendants unlawfully threatened to charge Eviction Fees through written correspondence (the "Collection Letter").

The lawsuit brought various claims for relief: a violation of the North Carolina Residential Rental Agreements Act (N.C.G.S. § 42-46), a violation of the North Carolina Debt Collection Act (N.C.G.S. § 75-50 et seq.), a violation of the North Carolina Unfair and Deceptive Trade Practices Act (N.C.G.S. § 75-1.1 et seq.), and for declaratory judgment.

The Defendants deny these claims, contend that they have numerous defenses to the action, and deny that class certification is required or appropriate.

**3. Why is this a class action?**

In a class action, one or more people, called "Class Representatives," sue on behalf of people who have similar claims. All these people are in a "class" or "settlement class members," except for those who exclude themselves from the Class. The Honorable William J. Osteen, Jr. of the United States District Court for the Middle District of North Carolina, is in charge of this class action.

**4. Why is there a Settlement?**

The Defendants deny that they did anything wrong. Both sides want to avoid the cost of further litigation. The Court has not decided in favor of the Representative Plaintiff or the Defendants. The Representative Plaintiff and her attorneys think the Settlement is best for everyone who is affected. The Settlement provides the opportunity for Settlement Class Members to receive Settlement benefits.

## WHO IS IN THE SETTLEMENT?

**5. How do I know if I am in the Settlement?**

There are two types of Class Members in this Action:

**A) *Collection Letter Class Members***

You are a Collection Letter Class Member if you are a natural person who at any point between October 7, 2016, and June 25, 2018, resided in any of the properties in North Carolina owned and/or managed by Defendants, and you received a Collection Letter.

**B) *Eviction Fee Class Members***

You are an Eviction Fee Class Member if you are a natural person who at any point between October 7, 2016, and June 25, 2018, resided in any of the properties in North Carolina owned and/or managed by Defendants, and you were charged and paid Eviction Fees.

**Eviction Fee Class Members may also be Collection Letter Class Members if they meet the requirements of both Classes.**

Excluded from the Settlement Classes are (1) employees, directors, officers, and agents of Defendants; (2) persons who timely and properly exclude themselves from the Settlement Classes as provided in this Notice; (3) anyone who has previously executed a written release that related to the collecting or threatening to collect Eviction Fees; and (4) the Court, the Court's immediate family, and Court staff.

**6. What if I am still not sure if I am included in the Settlement?**

If you are not sure whether you are a Settlement Class Member, or have any other questions about the Settlement Agreement, you should visit the Settlement Website, [www.ncpalmstenantsclass.com](http://www.ncpalmstenantsclass.com), or call the toll-free number, 833-242-0509.

## **SETTLEMENT BENEFITS**

**7. What does the Settlement provide?**

The Settlement provides two types of benefits: Monetary Relief and Non-Monetary Relief. Monetary Relief means \$225,000 in cash and approximately \$660,000.00 in Debt Relief. The Monetary Relief shall be used to pay all costs associated with the Settlement, including but not limited to (a) the costs of notice and administration of the Settlement, including for a Settlement Notice and Claims Administrator to process claims, objections, and opt-out requests; (b) the payment of valid approved claims; (c) attorneys' fee awards (if any); (d) attorneys' expenses and costs (actually incurred litigation expenses and other hard costs apart from fees); (e) service awards (if any) to the Representative Plaintiffs; and (f) any other expenses.

**8. What can I get from the Settlement?**

**A. Monetary Relief - Cash Fund**

If you are a member of the ***Collection Letter Class***, you must submit a valid and timely Claim Form either online at [www.ncpalmstenantsclass.com](http://www.ncpalmstenantsclass.com) or print it off and mail it to the address below by **April 14, 2023**. If you submit such a Claim Form, you are eligible to receive \$20.00 if you certify under penalty of perjury that you received a Collection Letter threatening that Defendants would assess Eviction Fees. You may be eligible to receive \$20.00 per letter, up to a maximum of \$60.00, for each Collection Letter received. You must certify under penalty of perjury the number of Collection Letters received and provide the month and the year when those Collection Letters were received. You must provide specific information and the months and the years about any Collection Letters you received to receive any award.

**If you submit a valid and timely Claim Form, the amount you actually receive may be significantly different depending on how many valid claims are ultimately submitted by other Class Members.** The available Settlement Fund will be distributed on a proportional basis once the Settlement becomes final. The Collection Letter Class has been allotted \$10,000.00 of the Settlement Fund. The exact amount of compensation will be determined after administrative expenses, service award, and attorneys' fees and costs are deducted.

**You must submit a valid Claim Form to obtain Collection Letter benefits.**

If you are a member of the ***Eviction Fee Class***, you do NOT need to file a claim to obtain Eviction Fee benefits. Defendants' records demonstrate how many instances in which you were charged and paid Eviction Fees to Defendants during the Relevant Time Period. Accordingly, each Eviction Fee Class Member may receive compensation of approximately \$190.00 for being charged and paid Eviction Fees.

If you are a member of the ***Eviction Fee Class***, you may also be a member of the ***Collection Letter Class***. You must submit a Claim Form if you want to obtain Collection Letter Class benefits in addition to Eviction Fee Class benefits for which you are eligible automatically as explained above.

The available Settlement Fund will be distributed on a proportional basis once the Settlement becomes final, subject to the allotment available to the Collection Letter Class described above. The Eviction Fee Class has been allotted the remainder of the Settlement Fund and any unclaimed funds allotted to the Collection Letter Class. The exact amount of compensation will be determined after administrative expenses, service award, and attorneys' fees and costs are deducted, and awards may be subject to a pro rata reduction if oversubscribed.

**You do not need to submit a Claim Form to obtain Eviction Fee Class cash benefits.**

## **B. Monetary Relief-Debt Relief**

In addition to the cash payments described above, Defendants agree to waive all Outstanding Debt owed by Class members who resided at certain Defendants' Properties. This amounts to approximately \$650,000.00. This benefit is automatically available to qualified Eviction Fee Class members; **you do not need to submit a Claim Form to obtain Debt Relief benefits.**

### **9. What am I giving up to stay in the Class?**

Unless you exclude yourself from the Settlement, you cannot sue the Released Persons, continue to sue, or be part of any other lawsuit against the Released Persons about the claims released in this Settlement. It also means that all of the decisions by the Court will bind you. The Released Claims and Released Persons are defined in the Settlement Agreement and describe the legal claims that you give up if you stay in the Settlement Class. The Settlement Agreement is available at the Settlement Website, [www.ncpalmstenantsclass.com](http://www.ncpalmstenantsclass.com).

## **HOW TO GET A PAYMENT**

### **10. How can I get a payment?**

#### **A. *Monetary Relief- Cash Payments***

***Eviction Fee Class Members*** do not need to submit a claim to obtain Eviction Fee benefits. Defendants' records will be used to determine your eligibility to participate in the Settlement. ***Eviction Fee Class Members*** are also members of the ***Collection Letter Class***. As an Eviction Fee Class Member, you must submit a Claim Form as explained below if you want to obtain Collection Letter Class benefits, in addition to Eviction Fee Class benefits for which you are eligible automatically.

***Collection Letter Class Members*** must complete and submit a timely Claim Form to be eligible to receive a payment. You can complete and submit your Claim Form online at the Settlement Website. The Claim Form can be downloaded from the Settlement Website, as well. You can also request a Claim Form be sent to you by sending a written request to the Settlement Administrator by mail or by email.

#### **B. *Monetary Relief-Debt Relief***

Qualified Class members do not need to submit a claim to obtain Debt Relief benefits. This benefit will be automatically conferred to Eviction Fee Class members who resided at certain Defendants' Properties.

Claims may be mailed or emailed at the following addresses:

**MAIL:** *Johnson v. Palms Associates, Inc., et al., c/o Settlement Administrator, 1650 Arch Street, Suite 2210 Philadelphia, PA 19103.*

**EMAIL:** [info@ncpalmstenantsclass.com](mailto:info@ncpalmstenantsclass.com)

Please read the instructions carefully, fill out the Claim Form, and mail it postmarked no later than **April 14, 2023**, or submit your Claim Form online at the Settlement Website, [www.ncpalmstenantsclass.com](http://www.ncpalmstenantsclass.com), by **April 14, 2023**.

If you do not submit a valid Claim Form by the deadline, you will not receive a payment, and your claims will be extinguished.

### **11. When will I get my benefits?**

Benefits will be made after the Court grants "final approval" to the Settlement and after all appeals are resolved. If the Court approves the Settlement, there may be appeals. It's always uncertain whether these appeals can be resolved and resolving them can take time.

## **EXCLUDING YOURSELF FROM THE SETTLEMENT**

If you don't want a payment from the Settlement, and you want to keep the right to sue or continue to sue the Released Persons on your own about the claims released in this Settlement, then you must take steps to get out. This is called excluding yourself—or it is sometimes referred to as “opting out” of the Settlement Class.

**12. How do I get out of the Settlement?**

To exclude yourself, you must mail or email the Settlement Administrator, including the following:

- a. A caption or title that identifies it as “Request for Exclusion in *Johnson v. Palms Associates, LLC, et al.*, Case No. 1:20-cv-1094”;
- b. Your full name and address; and
- c. A signed statement that you wish to be excluded from the Settlement.

Your request for exclusion must be emailed or postmarked no later than **April 14, 2023** to the Settlement Administrator at:

SETTLEMENT ADMINISTRATOR
Class Action Opt-Out <i>Johnson v. Palms Associates, LLC, et al</i> Settlement PO Box 58220 Philadelphia, PA 19102 Email: <a href="mailto:info@ncpalmstenantsclass.com">info@ncpalmstenantsclass.com</a>

No person or entity may opt-out on behalf of another Class Member.

If you don't include the required information or timely submit your request for exclusion, you will remain a Settlement Class Member and will not be able to sue the Released Persons about the claims in this lawsuit.

**13. If I don't exclude myself, can I sue the Defendants for the same thing later?**

No. Unless you exclude yourself, you give up any right to sue the Defendants and Released Persons for the claims that this Settlement resolves. If you have a pending lawsuit, speak to your lawyer in that lawsuit immediately. You must exclude yourself from this Settlement Class to continue your own lawsuit. If you properly exclude yourself from the Settlement Class, you shall not be bound by any orders or judgments entered in the Action relating to the Settlement Agreement.

**14. If I exclude myself, can I still get a payment?**

No. You will not get any money from the Settlement if you exclude yourself. If you exclude yourself from the Settlement, do not send in a Claim Form asking for benefits.

## OBJECTING TO THE SETTLEMENT

**15. How can I tell the Court if I do not like the Settlement?**

Any Class Member who does not timely and properly opt out of the Settlement may object to the fairness, reasonableness, or adequacy of the proposed Settlement under Federal Rule of Civil Procedure 23. Each Class Member who wishes to object to any term of this Agreement must do so, in writing, by filing a written objection with the Clerk of the Court and mailing it to Settlement Class Counsel, and counsel for Defendants.

**The written objection must include:** (i) the objector's name, address, and telephone number; (ii) the name of this Action and the case number; (iii) a statement of each objection; (iv) proof of class membership, and (v) a written brief detailing the specific basis for each objection, including any legal and factual support the objector wishes to bring to the Court's attention and any evidence the objector wishes to introduce in support of the objection.

If the objection is made through an attorney, the written objection must also include: (1) the identity and number of the Settlement Class members represented by objector's counsel; (2) the number of such represented Settlement Class members who have opted out of the Settlement Class; and (3) the number of such represented Settlement Class members who have remained in the Settlement Class and have not objected. If the attorney intends to seek fees and expenses from anyone other than the objectors he or she represents, the attorney shall also file with the Court and serve upon Class Counsel and Defendants' Counsel not later than fourteen days before the Final Fairness Hearing, or as the Court may otherwise direct, a document containing the following: (1) the amount of fees sought by the attorney for representing the objector and the factual and legal justification for the fees being sought; (2) a statement regarding whether the fees being sought were calculated on the basis of a lodestar, contingency, or other method; (3) the number of hours already spent by the attorney and an estimate of the hours to be spent in the future; and (4) the attorney's hourly rate.

Objectors must also make themselves available for deposition by counsel for the Parties between the time the objection is filed and a date no later than five (5) business days before the Final Fairness Hearing, and the objection must include the dates when the objector is available for deposition.

Any Settlement Class member who files and serves a written objection satisfying the requirements of this section, may appear at the Fairness Hearing, either in person or through personal counsel hired at the Settlement Class member's expense, to object to any aspect of the fairness, reasonableness, or adequacy of the Settlement. Class members, or their attorneys, intending to make an appearance at the Final Fairness Hearing must deliver to Class Counsel and Defendants' Counsel and have file-marked by the Court, no later than sixty days after the entry of the Preliminary Approval Order, or as the Court otherwise may direct, a Notice of Intent to Appear. The Notice of Intent to Appear must: (1) state how much time the Settlement Class member anticipates needing to present the objection; (2) identify, by name, address, and telephone number all witnesses the Settlement Class member proposes to have testify; (3) summarize in detail the anticipated testimony of all such witnesses; (4) identify all exhibits the Settlement Class member intends to offer in support of the objection; and (5) attach complete copies of all such exhibits.

Your objection, along with any supporting material you wish to submit, must be filed with the Court, with a copy delivered to Class Counsel, Defendants' Counsel and Settlement Administrator no later than, **April 14, 2023** at the following addresses:

CLASS COUNSEL	DEFENDANTS' COUNSEL	COURT	SETTLEMENT ADMINISTRATOR
Scott Harris Patrick Wallace <b>Milberg Coleman Bryson Phillips Grossman, PLLC</b> 900 W. Morgan Street Raleigh, North Carolina 27603  Edward H. Maginnis Karl S. Gwaltney <b>Maginnis Howard</b> 7706 Six Forks Road Raleigh, North Carolina 27615	Richard T. Boyette F. Marshall Wall Steven A. Bader <b>Cranfill Sumner LLP</b> Post Office Box 27808 Raleigh, North Carolina 28603	US District Court L. Richardson Preyer Courthouse 324 W. Market Street Greensboro, NC 27401	<i>Johnson v. Palms Associates, LLC., et al.</i> c/o Settlement Administrator 1650 Arch Street, Ste 2210 Philadelphia, PA 19102

**16. What is the difference between objecting and excluding?**

Objecting is simply telling the Court that you don't like something about the Settlement. You can object to the Settlement only if you do not exclude yourself from the Settlement. Excluding yourself from the Settlement is telling the Court that you don't want to be part of the Settlement. If you exclude yourself from the Settlement, you have no basis to object to the Settlement because it no longer affects you.

## THE LAWYERS REPRESENTING YOU

**17. Do I have a lawyer in this case?**

Yes. The Court has appointed "Class Counsel" as designated in Question 15 of this Notice to represent the Settlement Classes.



You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

**18. How will the lawyers be paid?**

Class Counsel intends to file a motion on or before **April 29, 2023** seeking an award up to one-third of the Monetary Relief (includes the Cash Fund and Debt Relief) in fees and approximately \$7,500 in out-of-pocket expenses, as well as a service award in the amount of \$2,500 for the Representative Plaintiff to be drawn from the Settlement Fund. The Court will determine the amount of fees and expenses and service awards.

## **THE COURT'S FAIRNESS HEARING**

**19. When and where will the Court decide whether to approve the Settlement?**

The Court will hold a Fairness Hearing on **June 14, 2023 at 2:00 PM.** at the United States District Court for the Middle District Of North Carolina before the Hon., William L. Osteen, Jr., United States District Court Judge, in Courtroom No. 1, located at 324 W. Market Street, Greensboro, North Carolina 27401.

At the Fairness Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court will also consider how much to pay Class Counsel and the Representative Plaintiffs. If there are objections, the Court will consider them at this time. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take.

**20. Do I have to come to the hearing?**

No. Class Counsel will answer any questions that the Court may have, but you may come at your own expense. If you submit an objection, you don't have to come to Court to talk about it. As long as you filed and mailed your written objection on time to the proper addresses, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

**21. May I speak at the hearing?**

Yes. You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your "Notice of Intent to Appear." Your request must be filed with the Clerk of the Court and served on Class Counsel and Defendants' Counsel no later than **April 14, 2023**.

Any such request must state the name, address, and telephone number of the Class Member, as well as the name, address, and telephone number of the person who shall appear on his or her behalf. Any request for appearance that fails to satisfy these requirements, or that has otherwise not been properly or timely submitted, shall be deemed ineffective and a waiver of such Class Member's rights to appear and to comment on the Settlement at the Fairness Hearing. Only the Parties, Settlement Class Members, or their counsel may request to appear and be heard at the Fairness Hearing. Persons or entities that opt out may not request to appear and be heard at the Fairness Hearing.

## **IF YOU DO NOTHING**

**22. What happens if I do nothing at all?**

If you are a ***Collection Letter Class Member*** and do nothing, you will not get a payment from the Settlement. Unless you exclude yourself, you won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Released Persons about the legal issues in this case, ever again.

If you are an ***Eviction Fee Class Member*** and do nothing, you will receive a payment as described above. You won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Released Persons about the legal issues in this case, ever again.

Qualified Class members who do not file a timely and valid claim form shall still receive the Debt Relief.

## **GETTING MORE INFORMATION**

**23. How do I get more information?**

This Notice summarizes the proposed Settlement. More details are in the Settlement Agreement, available at the Settlement Website. If you have additional questions or want to request a Claim Form, you can visit the Settlement

Website or contact the Settlement Notice & Claims Administrator:

**MAIL:** *Johnson v. Palms Associates, LLC et al.* c/o Settlement Administrator, 1650 Arch Street, Suite 2210  
Philadelphia, PA 19103

**EMAIL:** [info@ncpalmstenantsclass.com](mailto:info@ncpalmstenantsclass.com)

**TOLL-FREE:** 833-242-0509

Updates will be posted at the Settlement Website as information about the Settlement process becomes available.

**PLEASE DO NOT CONTACT THE COURT OR THE CLERK'S OFFICE  
CONCERNING THIS CASE.**