

COMMONWEALTH COURT OF PENNSYLVANIA

NOTICE TO PERSONS WHO WERE DEFENDANTS IN CRIMINAL CASES IN THE COURT OF COMMON PLEAS IN MONTGOMERY (38TH JUDICIAL DISTRICT) BETWEEN JANUARY 2008 AND THE PRESENT, A CLASS ACTION MAY AFFECT HOW MUCH YOU OWE THE COURT IN COSTS

The Pennsylvania Commonwealth Court authorized this notice. This is not a solicitation from a lawyer.

- The lawsuit is called *McFalls, et al., v. 38th Judicial District, et al.*, No. 4 M.D. 2021, and is in the Commonwealth Court of Pennsylvania. The Court decided this lawsuit should be a class action on behalf of a “Class,” or group of people, that could include you. This notice summarizes your rights and options.
- The lawsuit claims that the 38th Judicial District, Hon. Carolyn T. Carluccio, President Judge (in her official capacity), Michael R. Kehs, Esq. Court Administrator (in his official capacity), and Lori Schreiber, Clerk of Courts (in her official capacity) (Collectively referred to as the “Defendants”) operated under a policy which, among other things, resulted in the imposition of duplicate costs in criminal cases in the 38th Judicial District. The lawsuit seeks to end this practice and to adjust any pending or open accounts to eliminate any duplicative costs. The Defendants deny any wrongdoing or liability. **The Court has not decided whether the Class or the Defendants are right.** The lawyers for the Class will have to prove their claims at a trial in the future.
- On April 6, 2023, the Hon. Ellen Ceisler, Judge of the Pennsylvania Commonwealth Court, certified this case as a class action. The Court has certified Amy McFalls, Jason Crunetti, Vincent Esposito, Gregory Jackson, and Brenda Lacy as the “Class Representatives.” Langer, Grogan & Diver, P.C. of Philadelphia, PA and the ACLU of Pennsylvania represent you as “Class Counsel.” You don’t have to pay Class Counsel, or anyone else, to participate. Instead, if the case is successful Class Counsel may ask the Court for attorneys’ fees and costs, which would be paid by Defendants.
- The class certified by the Court includes:

Individuals who have appeared or will appear as defendants in criminal cases in the 38th Judicial District and upon whom any duplicated costs were imposed on or after January 1, 2008, or will be imposed in the future, in one criminal case when charges arise out of the same occurrence, or in which the charges have been included in one complaint, information, or indictment.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
What Do I Need to Do	Nothing for now. The case is pending. No result has been reached. At the moment, this litigation does not bind you or obligate you in any way. If, in the future, a settlement of the case is proposed for Court approval, further notice will be sent to you informing you of the benefits and responsibilities with regard to that settlement. If the

	case results in an order that affects your rights, notice will be sent to you.
What Relief is the Case Seeking	This case seeks to stop the alleged practice of Defendants of imposing duplicated costs in criminal cases. The Plaintiff Class is also seeking to have any open account, i.e., cases in which the defendant still owes costs, adjusted to remove those duplicative costs. This case IS NOT seeking a refund of any duplicative costs paid. Thus, if successful, the case will stop the practice of duplicative costs and adjust open accounts to eliminate duplicative costs. It will not result in the payment of damages to any class members.
Ascertain if You are in the Class	If you want to find out if you are in the Class, go to the homepage of this site and click on the tab that says, See if I am in the Class and follow the prompts.
Excluding Yourself from the Class.	If you wish to exclude yourself from the class, you may do so by going to the homepage of this website and clicking on the tab that says Exclude Me from this Class Action and follow the prompts.

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BASIC INFORMATION

1. Why is this Notice being provided?

Judge Ellen Ceisler of the Pennsylvania Commonwealth Court authorized this notice to inform you that this case has been certified as a class action lawsuit and about all your rights and options. This notice explains the lawsuit and your legal rights.

The case is known as *McFalls, et al., v. 38th Judicial District, et al.*, No. 4 M.D. 2021 and it was filed on January 5, 2021. The people who sue are called “Plaintiffs.” The governmental entities and persons being sued (specified on page 1 of this notice) are collectively called the “Defendants.”

You can view the original Complaint in this litigation by going to the homepage of this site and clicking on the tab that says Key Documents and then look for “Complaint.”

2. What is this lawsuit about?

Plaintiffs allege that Defendants have violated the United States Constitution, the Pennsylvania Constitution, and other Pennsylvania law by imposing certain duplicate costs in criminal cases arising out of one complaint, information or indictment. Plaintiffs allege that Pennsylvania law allows these court costs to be imposed only one time in each case regardless of how many criminal offenses a person is convicted of in that case. Plaintiffs allege that the Defendants have violated this law because from at least as early as 2008, Defendants have, in numerous instances, duplicated such costs by imposing them once per charge, rather than once per case. Plaintiffs allege that any such duplicative costs are unlawful and therefore legally invalid. Plaintiffs further allege that as a result of Defendants unlawful practice, certain Defendants in criminal cases in the 38th Judicial District (Montgomery County) have been faced with the imposition of duplicative costs, with the effect that they are obligated to pay more than they should be paying as a result of the resolution of their criminal cases. Plaintiffs also allege that Defendants have failed to provide adequate notice of the costs imposed on criminal defendants, which violates the federal and state Constitutional rights to due process of law. In addition, Plaintiffs allege that in selecting some criminal defendants to receive duplicated costs while not imposing those costs on other criminal defendants, the Defendants have violated federal and state Constitutional rights to equal protection of the laws.

Defendants, for their part, deny all of Plaintiffs’ allegations and maintain that they have acted at all times in a lawful manner.

3. Why is this a Class Action?

In a class action, one or more people sue on behalf of other people who have similar claims. If allowed by a court, all of these other people become part of a “class” or “Class Members.” One lawsuit resolves the claims of all Class Members, except for any who exclude themselves from the class. In this case, the Court held that the individuals who filed this suit could represent a class for

the purposes of seeking to halt Defendants' practice of imposing duplicative costs, a declaration that Defendants' conduct in imposing duplicative costs is illegal, and for adjustment of open or pending accounts owed by Class Members to eliminate any duplicative costs.

To view the Court's order certifying the class go to the homepage of this site and click on the tab that says Key Documents then look for "Class Certification Order."

4. Who is in the Class

In its order certifying the class, the Court defined the class as follows:

Individuals who have appeared or will appear as defendants in criminal cases in the 38th Judicial District and upon whom any duplicated costs were imposed on or after January 1, 2008, or will be imposed in the future, in one criminal case when charges arise out of the same occurrence, or in which the charges have been included in one complaint, information, or indictment.

5. How do I know if I am Part of the Class

Were you a criminal defendant in a case in Common Pleas Court in Montgomery County that had sentencing between January 1, 2008 and the present? Were you charged duplicate costs in connection with that case?

You may not have enough information to determine if you fit the definition given by the Court. What should you do? First, at this stage of the litigation, you are under no obligation, nor do you have any responsibilities as a class member. In effect, there may be no reason for you to worry about whether you are in the class or not, right now. Later, if a settlement is proposed, it may become more important to know whether you are in the class. This litigation is not yet at that point. However, if you do wish to see if you are in the class defined by the Court, you can check by going to the homepage of this site and click the tab that says, See if I am In the Class and follow the prompts there.

6. Are there any reasons to exclude myself from this Class now?

No. Unless you are planning to hire your own lawyer and bring your own case challenging the Defendants' conduct with respect to duplicate costs, there is no reason to exclude yourself from the Class at this stage.

7. Will this class action help me reverse my criminal conviction or wipe out my criminal record?

No. This case is only about the unlawful imposition of duplicative costs and has nothing to do with reversing your criminal conviction. This case will not change your criminal record.

8. If the case is successful what is likely to happen?

No one knows whether the case will be successful. No one can or should make any predictions about whether the case will be successful or how or on what terms the case will be resolved. There are two ways in which the case could be resolved successfully: (1) Adjudication: where the judge determines who wins and loses either after a trial or before trial upon an

appropriate motion; or (2) Settlement: where the parties agree to some form of settlement, and the Court approves that settlement.

In the case of success upon adjudication, the Court would enter an order granting appropriate relief and the Defendants would be obligated to follow that order and do the things the Court orders them to do. The Defendants could also appeal that order. As a result of success by adjudication, all Class Members would enjoy the benefits of the relief ordered by the Court. Class Members would also be bound by the Court's order in that they could not bring another law suit seeking more or other forms of relief other than what the Court ordered.

If the case were resolved by settlement, the parties would negotiate a settlement agreement and that agreement would be presented to the Court for the Court's approval. Before that settlement was presented to the Court, notice of that settlement including an explanation of its benefits and its burdens on the Class would be published to notify Class Members of the terms of the settlement and, if appropriate, to provide an opportunity to those persons who wished to exclude themselves from the Settlement, i.e., not receive its benefits or accept its obligations, to do so.

9. How do I exclude myself from the Class now?

As was explained above, there is no good reason to exclude yourself from the Class now unless you are planning to bring your own lawsuit. However, if you are certain that you wish to exclude yourself now, you can do so by going to going to the homepage of this site and look for the tab that says, Exclude Me from the Class and following the procedures set forth there.

10. Do I have a lawyer in this case?

Yes. Langer Grogan & Diver, P.C. and the ACLU of Pennsylvania represent the Class in this matter. These firms are called "Plaintiffs' Counsel."

11. How will the lawyers in the case be paid?

If the case is resolved successfully, Plaintiffs' Counsel will ask the Court to award attorneys' fees and expenses to be paid by the Defendants, not by the Class members. Plaintiffs' Counsel's application for attorneys' fees and expenses must be reviewed and approved by the Court.

OTHER INFORMATION

12. How do I get more information?

This notice summarizes the Class Action. Elsewhere on this site are copies of the key documents in the case including the Judge's orders to date and tabs for you to check whether you are in the class, to exclude yourself from the class, to update your contact information, or to contact and send a message to Class Counsel.

Please do not contact Defendants, their counsel, the Court or the Clerk's office.