

If You Own or Owned Property Bordering Lake Erie You Could Receive Money from a Class Action Settlement

An Ohio state court authorized this Notice. This is not a solicitation from a lawyer.

- A Settlement has been reached in a class action filed in 2004 on behalf of owners of property bordering Lake Erie in the State of Ohio. The Plaintiffs in this lawsuit asserted various claims against the State of Ohio (“State”) and the Ohio Department of Natural Resources (“ODNR”) concerning the State’s position that it held title in trust to all lands lakeward of the Ordinary High Water Mark (the “OHWM”) of Lake Erie.
- The Settlement provides for the payment of claims of certain landowners who own or have owned property bordering Lake Erie (the “Settlement Class”) and that qualify for reimbursement. As a result of the Settlement, the State and ODNR will be released from all liability for claims that were or could have been made in the lawsuit, and the landowners included in the class action will not be able to sue the State and/or ODNR in the future over the same, similar, or related claims. In turn, the State and ODNR are prevented from suing members of the Settlement Class in the future over claims that are the same as, similar to, or related to the claims in the lawsuit, including ODNR’s claims of public trust ownership (including claims for submerged lands lease rentals) landward of the natural shoreline.

YOUR LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENT	
Submit a Claim Form	To receive a payment, you must submit a Claim Form so it is received by October 12, 2016 . The Claim Form is enclosed with this Notice and is available on the website, www.LakeErieSettlement.com . If you submit a Claim Form, you will be bound by the Settlement.
Object	You may write to the Court about why you don’t like the Settlement. You may also ask to speak in Court (or hire a lawyer to speak in court on your behalf) about your objection and the fairness of the Settlement. However, if the Court approves the Settlement over your objection, you will be bound by the Settlement and will not be able to bring another lawsuit against the State or ODNR based on claims that are the same as, similar to, or related to the claims resolved by the Settlement.
Do Nothing	You may do nothing and receive no payment. However, if the Court approves the Settlement, you will be bound by the Settlement and will not be able to bring another lawsuit against the State or ODNR on claims the same as or similar to the ones resolved in the Settlement.

- These rights and options – **and the deadlines to exercise them** – are explained in this Notice.
- 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.

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BASIC INFORMATION

1. Why is there a Notice?

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

The Court in charge of the case is the Lake County Court of Common Pleas, and the judge is the Honorable Eugene Lucci. The class action is known as *State ex rel. Robert Merrill, Trustee, et al. v. State of Ohio Department of Natural Resources, et al.*, Case No. 04CV001080. In this Notice, the people who sued are called the Plaintiffs, and the entities they sued, the State and ODNR, are called the Defendants (the Plaintiffs and the Defendants are collectively referred to as the “Parties”).

2. What is the lawsuit about?

The lawsuit was filed in 2004 on behalf of the owners of property bordering Lake Erie in the state of Ohio. The lawsuit is about the landward extent of the State’s title in trust to Lake Erie and whether those property owners are entitled to compensation from the State as a result of its claim of public trust ownership up to the OHWM of Lake Erie.

On September 14, 2011, in *State ex rel. Merrill v. Ohio Dept. of Natural Resources*, 2011-Ohio-4612, the Ohio Supreme Court held that the landward extent of the State’s title in trust to Lake Erie is not the OHWM but, instead, that the “territory of Lake Erie held in trust by the state of Ohio for the people of the state extends to the natural shoreline, which is the line at which the water usually stands when free from disturbing causes.”

3. Why is this a class action?

In a class action, one or more people, called “Class Representatives” (in this case, Robert Merrill, Trustee; the Ohio Lakefront Group; Anthony J. Yankel; Charles S. Tilk; Sheffield Lake, Inc.; Sandra L. Wade; David A. Zeber; Patricia French; and Neil Luoma), sue on behalf of other people who may have similar claims. In 2006, Judge Lucci decided that the case should be a class action for purposes of deciding the question of the landward boundary of the State’s public trust ownership of Lake Erie. In 2012, Judge Lucci further decided that the case should be a class action for purposes of deciding whether ODNR’s claim of public trust ownership to OHWM took private property in violation of the Ohio Constitution and U.S. Constitution. Landowners who are included in the class definition (members of the “Settlement Class”) remain members of the class and will be bound by the Settlement if it receives final approval from the Court. The definition of the class is more fully described in Question 5.

4. Why is there a Settlement?

The Plaintiffs and the Defendants have engaged in litigation and fact discovery for many years. The Plaintiffs and the Defendants agreed to settle the claims in the lawsuit to avoid the costs, risks, and further delays that would be associated with proceeding to trial. The State and ODNR deny any wrongdoing or legal liability for the claims asserted in the lawsuit, and the Parties have agreed to the Settlement because it eliminates the risk of an adverse outcome at trial for either party, and at the same time, provides the opportunity for payment to members of the Settlement Class and the resolution and end of this lawsuit.

WHO IS ELIGIBLE FOR COMPENSATION

5. How do I know if I am a member of the Settlement Class whose claims are being settled?

You are a member of the Settlement Class if you have owned or co-owned property bordering Lake Erie (including Sandusky Bay and other estuaries previously determined to be a part of Lake Erie under Ohio law) within the territorial boundaries of the state of Ohio. Also, if you were a lessee under a submerged lands lease with ODNR between May 28, 1998 and May 20, 2015, that used OHWM as the boundary of the State’s public trust ownership and not the natural shoreline, you are a member of the Settlement Class. If you received this Notice in the mail without requesting it, property records show that you might be a member of the Settlement Class.

6. Are there exceptions to being included?

You are not a Settlement Class member if you are the State or a state agency as defined in section 1.60 of the Ohio Revised Code.

7. What if I'm still not sure I am included?

If you are still not sure whether you are included, you can get more information by writing to:

**Merrill v. ODNR Claims Administrator
c/o JND Class Action Administration
PO Box 6878
Broomfield, CO 80021**

You may also call toll-free, 1-844-360-2770, or submit an email to ONRSettlement@classactionadmin.com.

8. What should I do if I move or sell my property?

If you move after receiving this Notice and before the Settlement is finalized, you must send a letter with your new address to:

**Merrill v. ODNR Claims Administrator
c/o JND Class Action Administration
PO Box 6878
Broomfield, CO 80021**

If you sell your property after receiving this Notice and before the Settlement is finalized, the new owner will also be bound by the Settlement if it is approved.

9. Is every Settlement Class member eligible for compensation?

No, although you may be part of the Settlement Class, you are not eligible to receive compensation if you sold your property before May 28, 1998 or purchased your property after May 20, 2015. Regardless of whether you can receive compensation under the Settlement, if the Court approves the Settlement you will not be able to sue the Defendants in another suit over the same, similar, or related claims.

THE SETTLEMENT

10. What does the Settlement provide?

The Stipulation of Settlement ("Stipulation"), available at the website, www.LakeErieSettlement.com describes the Settlement. Generally, the Settlement provides for (a) the payment of valid claims for compensation submitted by members of the Settlement Class; (b) the refund of submerged lands lease rental payments made between May 28, 1998 and May 20, 2015, for any leased lands located between OHWM and the natural shoreline; and (3) the repayment of the Class Representatives' attorney fees incurred to define the boundary of the State's public trust ownership of Lake Erie and obtain a refund of submerged lands lease payments. The Settlement also resolves and ends this case and prevents members of the Settlement Class from suing the Defendants in the future over claims that are the same as, similar to, or related to the claims in the lawsuit. In turn, the Defendants are prevented from suing members of the Settlement Class in the future over claims that are the same as, similar to, or related to the claims in the lawsuit, including Defendants' claims of public trust ownership (including claims for lease fees) landward of the natural shoreline.

11. What can I get from the Settlement?

If approved by the Court, the Settlement will provide for cash payments to those members of the Settlement Class who qualify. **You do not need to calculate your payment amount. Your payment will be determined for you at a later**

date based on the terms of the Stipulation and the information you provide in the Claim Form. This information is provided to you to help you understand the potential value of the Settlement.

Payments are calculated for each parcel of lakefront property. If you owned lakefront property during the period for which compensation is being paid and you file a qualified claim, your share of the compensation for that parcel will depend on a number of factors, including:

- Whether you made rental payments pursuant to a submerged lands lease for any lands located landward of the natural shoreline, and the amount of any such payments;
- How many feet of frontage on Lake Erie you own or owned;
- Whether the property description of your lakefront property was altered between May 28, 1998 and date of the settlement to describe the Lake Erie boundary as the OHWM;
- Whether your lakefront property is located immediately adjacent to public lands with public access;
- How long you owned your lakefront property;
- How many people co-own(ed) the lakefront property with you;

The documents that must be submitted to qualify for payment are described in the Claim Form enclosed with this Notice. A copy is also available on the website, www.LakeErieSettlement.com.

12. What if I did not own my property for the entire time?

In some instances, a property has current and former owners. Your payment would be based on the proportionate period of your lakefront ownership and/or submerged lands lease during the time period for which compensation is being provided (the "Compensation Period"). The Compensation Period is May 28, 1998 through May 20, 2015.

13. What if I inherited my property?

If you inherited your property, along with any property-based claims that were owned by your deceased relative, you will be able to count any period of ownership by your deceased relative, provided that you have and submit appropriate documentation. For example, if you owned the property for 12 months and your relative owned the property for 24 months during the Compensation Period, your payment will be based on 36 months. Please note that you will need to provide the Claims Administrator with a personal representative's deed or beneficiary's deed showing you acquired your property by inheritance. You will also need to provide a deed or certificate of title that reflects your relative's acquisition of the property.

14. What if there are multiple owners of my property?

If you file a valid claim, the Claims Administrator will write a single check payable to all co-owners of the property. The check will be mailed in care of the person who submits the Claim Form.

If your ownership of the property has changed during the Compensation Period, then each owner or group of co-owners (including estates) must submit a separate Claim Form for each period of ownership. Ownership may change, for example, through a transfer between family members, from or to a related corporation, or to a trust, or through the addition or deletion of co-owners.

15. What do the State and/or ODNR get from the Settlement?

The lawsuit will be dismissed, and the Defendants will be released from liability to the Settlement Class members for the claims that were made or could have been made in the lawsuit so that the same, similar, or related claims cannot be raised again by any Settlement Class member or any person who in the future purchases a parcel included in this Settlement.

THE CLAIMS PROCESS

16. How can I get a payment?

The Claim Form enclosed with this Notice has been mailed to all known members of the Settlement Class having a submerged lands lease in effect between May 28, 1998 and May 20, 2015 that potentially leased any lands between OHWM and the natural shoreline. A Claim Form is also available at the website, www.LakeErieSettlement.com. You will need to complete the Claim Form so it is **received by the Claims Administrator by October 12, 2016** and supply the Claims Administrator with proof of your ownership of each parcel of property. If you have questions about the Claim Form or the documentation requirements, you can call 1-844-360-2770.

Completed Claim Forms and proof of ownership of each parcel of property must be received by the Claims Administrator no later than October 12, 2016. You may check the website, www.LakeErieSettlement.com, for updates on the status of the Settlement.

17. When will I get my payment?

The court will hold a hearing on October 14, 2016 at 10:00 A.M. to decide whether to give final approval to the Settlement (see Question 22). If the court approves the Settlement, the Claims Administrator will review your claim and determine if you qualify for payment.

An appeal after the court approves the Settlement may cause additional time delays. Payments will not be made while an appeal is pending. The amount of time an appeal takes is always uncertain but can be more than a year. Please check the website periodically for updates on this case.

18. What if I disagree with the amount of my payment?

The amount of your potential payment will be determined by the terms of the Stipulation and the information you provide on the Claim Form. If approved by the court, there will be a process in the Settlement for the court to resolve disagreements over whether you are eligible or the amount of your payment. More details are available in the Stipulation, which is available at www.LakeErieSettlement.com.

THE LAWYERS REPRESENTING YOU

19. Do I have a lawyer in this case?

The court decided that the law firm of Calfee, Halter & Griswold, LLP of Cleveland, Ohio is qualified to represent you and all members of the Settlement Class as "Class Counsel" for the Plaintiffs. More information about the law firm and its practice is available at www.calfee.com. 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.

20. How will the lawyers be paid?

The court will decide how much Class Counsel will be paid for obtaining compensation for the Settlement Class. Class Counsel will ask the Court for attorneys' fees, costs, and expenses in the amount of \$1,247,369.80.

Class Counsel already has been paid for obtaining a final court judgment declaring what the natural shoreline means for purposes of determining the landward boundary of the State's public trust ownership of Lake Erie.

OBJECTING TO THE SETTLEMENT

21. What if I do not like the Settlement or the amount of the fees to be paid to Class Counsel and the Class Representatives?

If you are a Settlement Class member and you do not like the Settlement or the fees to be paid to Class Counsel or the Class Representatives, you can object to the Settlement or to requests for fees and expenses by Class Counsel. To object, you must send a letter that includes the following:

- your name and address;
- the title of the case, *State ex rel. Robert Merrill, Trustee, et al. v. State of Ohio Department of Natural Resources, et al.*, Case No. 04CV001080;
- a statement saying that you object to the Settlement;
- the reasons you object;
- the legal description of your property bordering Lake Erie with proof of ownership; and
- your signature.

Your objection, along with any supporting material you wish to submit, must be mailed and **postmarked no later than August 29, 2016**, to all of the following addresses:

Merrill v. ODNR Claims Administrator
c/o JND Class Action Administration
PO Box 6878
Broomfield, CO 80021

Lake County, Ohio Court of Common
Pleas
47 North Park Place
Painesville, Ohio 44077

James F. Lang
Fritz E. Berckmueller
Lindsey E. Sacher
Calfee, Halter & Griswold, LLP
The Calfee Building
1405 East Sixth Street
Cleveland, Ohio 44114

Anne Marie Sferra
Daniel C. Gibson
Ali I. Haque
Bricker & Eckler LLP
100 South Third Street
Columbus, Ohio 43215

PLEASE DO NOT SEND ANY OTHER COMMUNICATIONS TO THE COURT.

THE COURT'S SETTLEMENT HEARING

The Court will hold a hearing to decide whether to approve the Settlement and any requests for fees and expenses. You may attend and, if you submit a written objection and a Notice of Intention to Appear, you may ask to speak, but you don't have to.

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

The Court will hold a Settlement Hearing on October 14, 2016 at 10:00 A.M. at the Court of Common Pleas for Lake County, Ohio, 47 North Park Place, Painesville, Ohio 44077. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check the class website here: www.LakeErieSettlement.com. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. 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.

23. Do I have to come to the hearing?

No. Class Counsel will answer any questions Judge Lucci may have. But you may come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you mailed your written objection on time, to the proper address, the Court will consider it. You may also pay your own lawyer to attend.

24. May I speak at the hearing?

If you submitted a written objection, you may ask the Court for permission to speak at the Settlement Hearing. To do so, you must send a letter saying that you intend to appear and wish to be heard. Your Notice of Intention to Appear must include the following:

- your name and address;
- the title of the case;
- a statement that this is your “Notice of Intention to Appear”; and
- your signature.

You must mail your Notice of Intention to Appear, **postmarked no later than August 29, 2016**, to all of the four addresses in Question 21.

IF YOU DO NOTHING

25. What happens if I do nothing at all?

If you do not file a claim, you will not get any money from the Settlement, the case will be over, and you will be bound by the Settlement.

GETTING MORE INFORMATION

26. How do I get more information?

Visit the website, www.LakeErieSettlement.com, where you will find answers to common questions about the Settlement and other information to help you determine whether you are a Settlement Class member eligible for a payment. If you still have questions, you can write to:

**Merrill v. ODNR Claims Administrator
c/o JND Class Action Administration
PO Box 6878
Broomfield, CO 80021**

You may also call toll-free, 1-844-360-2770. Please do not contact the Court for further information. This Notice summarizes the lawsuit. More details are found in the documents filed with the Court. You may examine all of the documents about this case Monday through Friday, during regular business hours, at the Office of the Clerk, Lake County, Ohio Court of Common Pleas, 47 North Park Place, Painesville, Ohio 44077.