

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI**

**RENE GUTIERREZ and JOHN  
GUTIERREZ, a married couple, on  
behalf of themselves and all others  
similarly situated,**

**Plaintiffs**

**v.**

**STATE LINE NISSAN, INC.,**

**Defendant.**

**Case No. 4:08-cv-00285**

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

---

**YOUR LEGAL RIGHTS MIGHT BE AFFECTED BY THIS SETTLEMENT.  
PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY.**

---

A class action settlement has been reached under which your rights may be affected. If you purchased or leased a vehicle from State Line Nissan from February 25, 2003 through August 27, 2009 and you were charged a Document Preparation Fee or similar fee, you may be a class member and you may be entitled to a Gift Card under the terms of the proposed Settlement.

If you are a class member and you wish to file a claim, comment on the Settlement, object to the Settlement, or exclude yourself from the Settlement, you must do so following the procedures outlined in this Notice.

---

**WHAT THIS NOTICE CONTAINS**

This Notice is to advise you of the status of the lawsuit, the terms of the proposed Settlement, and your rights in connection with the proposed Settlement. This is not a lawsuit against you. A full copy of the Settlement Agreement may be reviewed at the Settlement website: [www.statelinesettlement.com](http://www.statelinesettlement.com). This Notice contains only a summary of the Settlement Agreement.

---

**1. Why Did I Get This Notice?**

---

This Notice was sent to you because you requested a long form Notice and or a Claim Form, either through the settlement website or by calling the settlement's toll-free number. If you purchased or leased a vehicle during the period of February 25, 2003 to August 27, 2009 from State Line Nissan and you were charged certain fees, variously known as a "Document Preparation Fee," "Doc Prep Fee," "Document Processing Fee," "Doc Processing Fee" "Doc Fee," "Document Fee," "Processing Fees," "Customer Service Processing Fees," "Administrative Fees," "Admin Fee," "Customer Benefit Fee" or a similarly named fee, you are a potential class member.

The lawsuit was captioned *Rene Gutierrez and John Gutierrez v. State Line Nissan, Inc.* pending in the United State District Court Western District of Missouri, Case No. 4:08-CV-00285. This Class

Settlement has been entered and preliminarily approved by the Court under Rule 23 of the Federal Rules of Civil Procedure.

---

## **2. What is the Lawsuit About?**

---

Plaintiffs Rene Gutierrez and John Gutierrez allege that State Line Nissan, Inc., violated Missouri Revised Statutes, §408.010 et seq (the Missouri “Practicing Law Statute”) and Missouri Revised Statutes § 407.010 et seq. (the “Merchandise Practices Act”). Plaintiffs allege that State Line Nissan violated the Practicing Law Statute and the Merchandise Practices Act by charging the Fees, referred to by various names as set forth above, for alleged unauthorized actions. Plaintiffs seek a refund of this fee as any fee charged for legal services by a non-lawyer is a violation of Missouri law. State Line Nissan denies any liability and has vigorously defended the allegations and raised numerous defenses to the Plaintiffs’ claims including whether the entire fee should be considered damage without any attempt to break down the fee into components and whether the fee was for the practice of law. (In August, 2009, legislation took effect enacted by the Missouri Legislature which states that certain administrative fees are lawful and may be charged).

---

## **3. Why is there a Settlement?**

---

The parties recognize that there is substantial risk for all involved and have agreed that rather than continue litigation for months and possibly years, that a resolution at this point is in the best interests of all. Plaintiffs believe they will prevail and Defendant believes it will prevail. Because there are substantial issues that can affect the end result of the case, the parties have decided to settle the case to avoid the risk of future litigation and to provide benefits to the Class.

---

## **4. Is the Settlement an Admission of Liability?**

---

The Settlement Agreement provides that it shall not be deemed nor construed as an admission or evidence of violation of the Practicing Law Statute or of any liability or wrongdoing by State Line Nissan. State Line Nissan decided, despite its belief that it is not liable for the claims asserted, to enter into the Settlement to avoid the further expense, inconvenience, and burden of this litigation and the distraction and diversion of its personnel and resources. The Settlement Agreement further provides that Plaintiffs and State Line Nissan concluded that it would be in their respective best interests to enter into the Settlement in order to avoid the uncertainties of litigation and potential lengthy appeals.

---

## **5. Who is Included in the Settlement?**

---

You are included in the Settlement if you fit within the Settlement Class definition. The Settlement Class is defined as “All persons who paid a doc fee, document fee, documentary fee, administrative fee and/or a processing fee as part of the purchase or lease of an automobile from any dealership owned by State Line Nissan, Inc., in the State of Missouri from February 25, 2003 to August 27, 2009.”

---

## **6. Who is the Gift Card Defendant subject to this Notice and what is the Class period for that Gift Card Defendant?**

---

State Line Nissan. You are a class member if you purchased or leased between February 25, 2003 and August 27, 2009.

---

---

## 7. What are the Settlement Terms?

---

Under the Agreement, State Line Nissan will pay a percentage of the fee that was charged. Because the fee was different at different points in time, the amounts of the Gift Card vary. The potential damages under the claims asserted are higher for those who purchased or leased a vehicle within the two year time period prior to the filing of the lawsuit due to the applicable statute of limitations. Therefore, the percentage paid to those Class Members is higher. The Settlement Class members agree to release their claims against State Line Nissan, and State Line Nissan agrees as follows:

(a) State Line Nissan agrees to provide a Gift Card worth 25% of the amount of the \$149.95 fee (\$37.49) paid by the Class Members who purchased or leased a car between February 25, 2003 and October 31, 2004. This gift card will be worth \$37.49.

(b) State Line Nissan agrees to provide a Gift Card worth 25% of the amount of the \$199.95 fee paid by the Class Members who purchased or leased a car between November 1, 2004 and February 24, 2006. This gift card will be worth \$49.99.

(c) State Line Nissan agrees to provide a Gift Card worth 50% of the amount of the \$199.95 fee paid by the Class Members who purchased or leased a car between February 25, 2006 and June 30, 2006. This gift card will be worth \$99.98.

(d) State Line Nissan agrees to provide a Gift Card worth 50% of the amount of the \$299.95 fee paid by the Class Members who purchased or leased a car between July 1, 2006 and June 30, 2009. This gift card will be worth \$149.98.

(e) State Line Nissan agrees to provide a Gift Card worth 50% of the amount of the \$199.95 fee paid by the Class Members who purchased or leased a car between July 1, 2009 and August 27, 2009. This gift card will be worth \$99.98.

(f) The Gift Card can be used the same as cash for any goods and/or services provided by the dealership where the claimant purchased or leased a vehicle. These cards may be transferred and assigned to an immediate family member (spouse, parent, child, sibling) if the Card recipient lives more than 50 miles from the dealership.

(g) Each Class member that submits a claim will receive a Gift Card as set forth above, unless the total amount of claims, administrative expenses and attorney fees and expenses exhausts the Settlement Fund, in which case the value of the Gift Cards will be for a pro rata share of the amount remaining in the Settlement Fund.

(h) All Gift Cards will be sent directly to the claimants.

(i) The named class representatives, Rene and John Gutierrez, shall receive an additional payment from the Settlement Fund of \$1000 as named representatives of the class.

---

## 8. Can I Opt-Out of the Settlement?

---

If you are a Class Member and do not wish to participate in, and be bound by, the proposed Settlement, you have the right to exclude yourself ("opt-out") from the Settlement Class. To opt-out of the Settlement Class, you must submit a signed notice of intent, clearly stating that you wish to be excluded from the

Settlement Class. The opt-out must be postmarked no later than June 1, 2010 (60 days from the date of the mailing of the Notice). Said notice of intent to opt-out must state your name, address, telephone number, and date of birth, and clearly state that you want to be excluded from the Settlement Class. Your opt-out letter must be mailed to the Claims Administrator at Gutierrez Settlement Administrator, c/o Kurtzman Carson Consultants, LLC, PO Box 56798, Jacksonville, FL 32241-6798. If you opt-out of the Settlement Class, you will not be bound by the terms of the Settlement or any final judgment as they apply to Class Members, you will not be entitled to receive any distribution from the Settlement Fund, and you may not object to the Settlement.

---

### **9. Am I Bound by the Settlement?**

---

All persons falling within the definition of the Class will be bound by the terms of the Settlement Agreement and final judgment except as indicated in 8 above.

You will have the right to appear at the Final Approval Hearing to support or oppose the Settlement. You have the right to enter an appearance through your own attorney. If you do not choose to appear in person or by an attorney, your interests will be represented by Class Counsel (except to the extent that you have opted out of the Settlement Class).

---

### **10. Do I Have a Lawyer in This Case?**

---

The Court-appointed Settlement Class Counsel are:

**Mitch Burgess**  
Burgess and Lamb P.C.  
1000 Broadway, Suite 400  
Kansas City, MO 64105  
816-471-1700

**Ralph Phalen**  
The Law Offices of Ralph K. Phalen  
1000 Broadway, Suite 400  
Kansas City, MO 64105  
816-589-0753

---

### **11. How Will the Lawyers be Paid?**

---

Counsel for the Class in this lawsuit will apply to the Court for an award of attorneys' fees and costs of \$105,513.40 to be paid from the Settlement Fund. State Line Nissan agrees to pay that amount and not to oppose such application for fees and expenses.

---

### **12. Has the Court Decided on the Settlement?**

---

The Court has provisionally certified the Settlement Class, pursuant to Federal Rules of Civil Procedure 23(b)(1) and (3), for settlement purposes only. In addition, the Court has preliminarily approved the Settlement terms. If the Settlement is not granted final approval by the Court, then the lawsuit will return to its litigation posture.

---

### **13. When and Where Will the Court Decide to Approve the Settlement?**

---

A Final Approval Hearing ("Hearing") will be held on July 1, 2010, at 9 a.m. in the United State District Court Western District of Missouri before the Honorable Judge Fernando F. Gaitan, Jr., to determine whether the proposed Settlement is fair, reasonable, and adequate. The date is subject to change; any change will be posted on the Settlement website at [www.statelinesettlement.com](http://www.statelinesettlement.com). Class Counsel recommends acceptance of the proposed Settlement in the best interests of the Class.

---

## 14. How Do I Object to the Settlement?

---

Any member of the Settlement Class may object to the settlement by submitting a timely written notice of his or her objection. The written notice of objection must state (1) the objector's full name, address, telephone number and e-mail address, (2) information identifying the objector as a Settlement Class Member, such as (a) proof (e.g., an invoice showing the payment of a Document Preparation Fee) or (b) an affidavit setting forth, in as much detail as the objector can reasonably provide, the fact of paying a Document Preparation Fee and the dealership to whom it was paid; and documentation supporting the objector's allegation of damage if the objector is making such an allegation; (3) a written statement of all grounds for the objection accompanied by any legal support for the objection; (4) the identity of all counsel representing the objector; (5) the identity of all counsel representing the objector who will appear at the Final Approval Hearing; (6) a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection; (7) a statement confirming whether the objector intends to testify at the Final Approval Hearing; and (8) the objector's signature or the signature of the objector's duly authorized attorney or other duly authorized representative (along with documentation setting forth such authorization).

To be timely, written notice of an objection in appropriate form must be filed with the United State District Court Western District of Missouri, The Honorable Fernando F. Gaitan, Jr., Charles Evans Whittaker Courthouse, 400 E 9<sup>th</sup> Street, Kansas City, MO 64106 no later than 60 days from the date of the mailing of the Notice. In addition, copies must be served by mail or hand delivery upon the following attorneys:

**Co-Class Counsel:**  
Mitchell Burgess  
Burgess and Lamb P.C.  
1000 Broadway, Suite 400  
Kansas City, MO 64105

**Counsel for State Line Nissan:**  
Kevin Case  
Case & Roberts  
2300 Main Street, Ste 900  
Kansas City, MO 64108

Unless the Court directs otherwise, any objectors who fail to properly or timely file their objections with the Court and counsel as set forth above, shall not be heard during the Final Approval Hearing, nor shall their objections be considered by the Court.

---

## 15. How Do I File a Claim?

---

If you are an eligible Class Member and you do not exclude yourself from the Settlement, and if you wish to receive a Gift Card for a portion of the distribution from the Settlement Fund, then you must make a valid Claim by June 1, 2010.

Claims can be made one of the three following ways:

1. Online at [www.statelinesettlement.com](http://www.statelinesettlement.com) by June 1, 2010.
2. Alternatively, you can request a paper Verified Claim Form by calling the Settlement Administrator at 1-888-839-9893 and file a claim by completing the Form and returning it to the address listed on the Form, postmarked by no later than June 1, 2010, or
3. You can file by telephone by calling 1-888-839-9893 and providing the claim number on the front of the notice you received in the mail no later than June 1, 2010.

Claims for distribution submitted after June 1, 2010 will not be paid.

If the Settlement is approved by the Court after the Final Approval Hearing, if you have timely submitted a valid Claim by the deadline of June 1, 2010, and if the Claims Administrator has confirmed your eligibility to participate, you will be sent a Gift Card for the value of your share of the Settlement Fund distribution, as set forth herein.

---

### **16. How Will I Receive Payments?**

---

The Claims Administrator will verify the eligibility of each Class Member who submitted a valid Claim and will determine the amount of the Gift Card to be issued, if any, to which the Class Member is entitled from the Settlement Fund. The Gift Cards will be distributed in three groups. The Claims Administrator will send the Gift Cards to each eligible Class Member in the first group within 30 days after the Court has entered a final order and judgment approving the Settlement Agreement and dismissing the lawsuit, except that, if any party or Class Member files an appeal from the Court's order, then payment will not be made until 30 days after the appeal has been finally resolved and a final judgment has been entered. The second and third groups of Gift Cards will be mailed at 90-day intervals after the first group has been mailed. The Claims Administrator will send a notice to each claimant whose claims are denied informing each claimant of the reason for the denial.

No person shall have any claim against State Line Nissan's counsel, or Class Counsel based on distributions of benefits made substantially in accordance with the Settlement Agreement or further order(s) of the Court. Any dispute regarding the Gift Card received or denial of a claim for a Gift Card shall be submitted to Mediation. Costs of mediation will be paid by the Gift Card Defendant.

---

### **17. How Do I Get More Information?**

---

This Notice is intended to be a summary of the terms of the Settlement. The Settlement Agreement and Verified Claim Form may be viewed on the Settlement website at [www.statelinesettlement.com](http://www.statelinesettlement.com). The pleadings and other papers filed in this lawsuit are available for inspection and/or copying at the Court. Further inquiries can be directed to the Claims Administrator, at 1-888-839-9893.

**PLEASE DO NOT CALL THE COURT OR THE  
CLERK'S OFFICE ABOUT THIS SETTLEMENT.**

DATE: April 2, 2010