

If you lived in the Nitro or St. Albans area during the tire fire in May 2006, you could get a payment from a class action settlement.

A court authorized this notice. This is not a solicitation from a lawyer.

- A settlement has been reached in a class action lawsuit against ChemValley Properties, Inc. (including employees, officers, and directors) and U.S. Tire Recovery, LLC (including members and partners) involving the tire fire that took place near Nitro, West Virginia on May 4-5, 2006. The settlement does not involve health issues.
- The settlement includes anyone who owned or leased (or rented) a home in the Nitro or St. Albans area on May 4, 2006 and was part of the shelter-in-place advisories to remain indoors during the tire fire.
- The \$1,175,000 settlement fund will pay cash to those who submit valid claims, as well as fees for the lawyers appointed by the Court, plus expenses and the costs of the settlement administration.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT:	
SUBMIT A CLAIM	The only way to get a cash payment if you are eligible.
ASK TO BE EXCLUDED	Get no benefits. This is the only option that allows you to start, or remain part of any other lawsuit against the Defendants about the legal claims in this case.
OBJECT	Write to the Court about why you don't like the settlement.
GO TO A HEARING	Ask to speak in Court about the settlement.
DO NOTHING	Get no payment from this settlement. Give up your rights to sue the Defendants about the legal claims in this case.

- These rights and options—and the deadline 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. We do not know how long this will take. Please be patient.

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BASIC INFORMATION

1. Why was this notice issued?

A Court authorized this notice because you have a right to know about the proposed settlement in this class action lawsuit and about all of your options before the Court decides whether to give “final approval” to the settlement. This notice explains the lawsuit, the settlement, and your legal rights.

Judge Paul Zakaib, Jr., in the Circuit Court of Kanawha County, West Virginia, is currently overseeing this case. The case is known as *Angel v. U.S. Tire Recovery*, No. 06-C-855. The people who sued are called the “Plaintiffs.” The companies and people they sued, ChemValley Properties, Inc. (including employees, officers and directors) and U.S. Tire Recovery, LLC (including members and partners) are called the “Defendants.”

2. What is this lawsuit about?

This lawsuit does not involve health issues. The lawsuit alleges that approximately 40,000 tires were stored in the Nitro warehouse that burned and that the amount of tires stored in the warehouse posed a danger to area residents due to the risk of toxic fumes and vapors if the tires caught fire. The lawsuit also claims that the fire caused property damage, the loss of use and enjoyment of property, loss of property value, inconvenience and emotional distress. The Defendants deny these claims and maintain that they did not act wrongfully or unlawfully.

3. Why is this a class action?

In a class action, one or more people called Class Representatives, in this case, Marietta Angel, sue on behalf of people who have similar claims. Together, these people are called a “Class” or “Class members.” One court resolves the issues for all Class members, except for those who exclude themselves from the Class.

4. Why is there a settlement?

The Court did not decide in favor of Plaintiffs or the Defendants. Instead, both sides agreed to settle this case to avoid the cost and risk of trial. The settlement does not mean that any law was broken or that the Defendants did anything wrong. The Defendants deny all legal claims in this case. The Class Representatives and their lawyers think the settlement is best for all Class members.

WHO IS IN THE SETTLEMENT

5. How do I know if I am part of the settlement?

If you received this notice in the mail you have already been identified as a potential Class member. The settlement includes homeowners and leaseholders (including renters) who lived within the geographical boundaries of the shelter-in-place advisories on May 4, 2006. The settlement allows only one claim per household.

6. How do I know if my home was part of the shelter-in-place advisory?

The local authorities in Nitro and St. Albans issued warnings to their residents to remain indoors during the tire fire on May 4-5, 2006. The shelter-in-place advisories were issued for residents in the area that included Nitro/St. Albans Bridge to 40th Street in Nitro, West Virginia, and the area from 2nd Street to Ordinance Park in St. Albans, West Virginia. See the attached map for more details on the areas that were included in the shelter-in-place advisories.

7. How do I qualify as a homeowner or leaseholder?

A homeowner is the person who is listed on the property deed as the owner of the property. A leaseholder or renter is a person who is listed on the lease agreement as having a legal right to occupy the property.

8. I'm still not sure if I am included in the settlement.

If you are still not sure whether you are included, you can visit the website www.NitroFireSettlement.com, call toll free 1-888-233-5506, or write to Nitro Tire Fire Settlement, PO Box 4230, Portland OR 97208-4230, for more information.

THE SETTLEMENT BENEFITS—WHAT YOU GET

9. What does the settlement provide?

A \$1,175,000 settlement fund will be established by U.S. Tire Recovery and ChemValley Properties. After deducting attorneys' fees, their expenses and the costs of administering the settlement, the fund will be distributed, in cash, to Class members who submit valid claim forms. Any money remaining in the settlement fund, after any appeals are resolved and the settlement process has ended, will be donated to the Nitro and St. Albans fire departments.

10. How much will my payment be?

If you received this notice in the mail, the attached cover letter provides information on the estimated payment you are eligible to receive. The amount of money you can get from the settlement is based on where you lived during the shelter-in-place advisories as well as the number of Class members who file a claim. If you submit a valid claim, based on reasonable estimates of the number of households in the Class area, you will likely get between \$14 and \$15 for each hour you were required to shelter-in-place. The table below provides estimates of payments based on location during the tire fire:

LOCATION	ESTIMATED PAYMENT
St. Albans	\$68.60 - \$73.50
Nitro	\$214.20 - \$291.00

11. Can I get a payment if I was a homeowner who was leasing my property to someone else?

No. The settlement will only pay the leaseholder or renter who was living at the property since he or she was the one who was required to shelter-in-place.

12. What if I rented or owned a property with another person?

Payment will be given to the person who qualifies as the head of household for the property. However, if you owned or rented a property with an unrelated person (for example, a roommate) then you both could be considered separate heads of household and the payment will be split equally if both households file a valid claim.

13. Who qualifies as a head of household?

A head of household means a married or unmarried person who supports and maintains, in one household, one or more people who are related by blood, marriage, or adoption. If one or more people could qualify as head of household, anyone who is on the property deed or lease may submit the claim, but only one claim per household is allowed. A single person supporting himself or herself may qualify as a head of household.

14. What am I giving up in exchange for a settlement payment?

If the settlement becomes final, Class members will be releasing the Defendants for all of the claims described and identified in section IV(6) of the Settlement Agreement. The Settlement Agreement is available at www.NitroFireSettlement.com. The Settlement Agreement describes the released claims in necessarily accurate legal terminology, so read it carefully. You can talk to one of the lawyers listed below for free or you can, of course, talk to your own lawyer if you have questions about the released claims or what they mean.

HOW TO GET A PAYMENT—SUBMITTING A CLAIM FORM

15. What do I have to do to get a payment from this settlement?

To request a payment from the settlement you must complete and submit a claim form. If you did not receive a notice in the mail you can request a claim form by calling 1-888-233-5506 or visiting www.NitroFireSettlement.com. **Only one claim per household is allowed.** The claim form describes what you must provide to receive a payment. Please read the instructions carefully, fill out the claim form and mail it so that it is postmarked no later than **January 7, 2009** to:

Nitro Tire Fire Claims
PO Box 4230
Portland OR 97208-4230

16. Can my spouse and I both file a claim if we owned or leased a property together?

No. Although you and your spouse are both Class members, there is only one claim per household allowed. The claim should be filed by the person who is considered the head of household (see Question 13 above).

17. When will I get my payment?

Payments will be mailed to Class members who send in a valid claim form after the Court grants final approval to the settlement, and any appeals are resolved. If Judge Zakaib gives final approval to the settlement after a hearing on **December 15, 2008** (see the section “The Court’s Fairness Hearing” below), there may be appeals. Resolving these appeals can take time. Please be patient.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you want to keep the right to start your own lawsuit against the Defendants over the legal issues in this case, then you must take steps to get out of the settlement. This is called asking to be excluded from—sometimes called “opting out” of—the Class.

18. If I exclude myself, can I get anything from this settlement?

No. If you ask to be excluded, you will not get a payment, and you cannot object to the settlement. But you may sue, continue to sue, or be part of a different lawsuit against the Defendants in the future for the same claims resolved by this settlement.

19. If I don’t exclude myself, can I sue later?

No. Unless you exclude yourself, you give up the right to sue the Defendants for the claims that this settlement resolves. You must exclude yourself from this Class to start your own lawsuit.

20. How do I ask to be excluded?

To exclude yourself, send a letter that says you want to be excluded from *Angel v. U.S. Tire Recovery*. Include your name, address, and signature. You must mail your Exclusion Request postmarked by **December 1, 2008**, to:

Nitro Tire Fire Exclusions
PO Box 4230
Portland OR 97208-4230

THE LAWYERS REPRESENTING YOU

21. Do I have a lawyer in this case?

Yes. The Court appointed The Calwell Practice PLLC law firm of Charleston, West Virginia to represent you as “Class Counsel.” 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.

22. How will the lawyers be paid?

Class Counsel will ask the Court for attorneys' fees, costs and expenses for the lawyers representing Class members, of up to 25% of the settlement fund. The fees, expenses, and awards that the Court orders, plus the costs to administer the settlement, will come out of the settlement fund.

OBJECTING TO THE SETTLEMENT

23. How do I tell the Court if I don't like the settlement or some part of it?

You can object to the settlement if you don't like some part of it. You must give reasons why you think the Court should not approve the settlement. To object, send a letter saying that you object to the proposed settlement in *Angel v. U.S. Tire Recovery* and mention the case number (06-C-855). Be sure to include your name, address, telephone number, your signature, the reasons why you object to the settlement, all documents you want the Court to consider, and indicate whether you or your attorney will appear at the fairness hearing (see the section on the "Court's Fairness Hearing" below). Mail the objection to these two different places so that it is postmarked no later than **December 1, 2008**. Note: You may mail it to the Court, but it must be received by the Court and filed by that date.

COURT	SETTLEMENT ADMINISTRATOR
Clerk of Court Kanawha County Circuit Court 111 Court Street Charleston, WV 25301	Nitro Tire Fire Objections PO Box 4230 Portland OR 97208-4230

24. What's the difference between objecting and excluding?

Objecting is simply telling the Court that you don't like something about the settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you don't want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE COURT'S FAIRNESS HEARING

25. When and where will the Court decide whether to approve the settlement?

The Court will hold a Fairness Hearing at 9:00 a.m. on **December 15, 2008**, at the Kanawha County Circuit Court, 111 Court Street, Charleston, West Virginia. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check www.NitroFireSettlement.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. Judge Zakaib will only listen to people who have asked to speak at the hearing (see Questions 23 and 27). The Court will also consider how much to pay the lawyers representing Class members. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take.

26. Do I have to come to the hearing?

No. Class Counsel will answer any questions Judge Zakaib may have. But, you are welcome to 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, the Court will consider it. You may also pay another lawyer to attend, but it's not required.

27. May I speak at the hearing?

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 in *Angel v. U.S. Tire Recovery*." Be sure to include your name, address, telephone number, and your signature. Your Notice of Intent to Appear must be postmarked or received no later than **December 1, 2008**, and must be sent to the addresses listed in Question 23. You cannot speak at the hearing if you excluded yourself from the Class.

IF YOU DO NOTHING

28. What happens if I do nothing at all?

If you are a Class member and do nothing, you will not get a cash payment from this settlement. And, unless you exclude yourself, you won't be able to start a lawsuit, or be part of any other lawsuit against the Defendants about the claims in this case, ever again.

GETTING MORE INFORMATION

29. How do I get more information?

This notice summarizes the proposed settlement. More details are in the Settlement Agreement which is available at www.NitroFireSettlement.com. You may also call 1-888-233-5506 or write with questions to Nitro Tire Fire settlement, PO Box 4230 Portland OR 97208-4230.

MAP—SHELTER-IN-PLACE ADVISORY AREAS

