

## **If You Rented Online DVDs from Netflix, A Class Action And A Settlement With Wal-Mart May Affect You.**

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

- There is a lawsuit involving the price of online DVD rentals. The lawsuit claims that Wal-Mart Stores Inc. and Walmart.com USA LLC (together called “Wal-Mart”) and Netflix, Inc. (“Netflix”) entered into an agreement that caused Netflix subscribers to pay higher subscription prices. The Class Action seeks money for current and former Netflix subscribers. On November 22, 2011, the Court granted Netflix’s Motion for Summary Judgment, resulting in the dismissal of the lawsuit. Plaintiffs can appeal this decision.
- There is a Netflix Litigation Class and a Wal-Mart Settlement Class. A Settlement has been reached with Wal-Mart. Wal-Mart and Netflix believe that the lawsuit has no basis.
- Your legal rights are affected whether you act or don’t act. This Notice includes information on the Settlement and the litigation with Netflix. Please read the entire Notice carefully.

<b>Your rights and options—and the deadlines to exercise them—are explained in this notice.</b>	
You can file a claim for benefits from the Settlement.	<i>see</i> Question 12
You can object or comment on the Settlement.	<i>see</i> Question 14
You can go to a court hearing and ask to speak about the Settlement.	<i>see</i> Question 18
You may also exclude yourself from the Wal-Mart Settlement.	<i>see</i> Question 14
You may also exclude yourself from the litigation against Netflix.	<i>see</i> Question 6

- The Court in charge of the case still has to decide whether to approve the Settlement with Wal-Mart.

**For More Information: Call 1-877-389-4469 or Visit [www.OnlineDVDclass.com](http://www.OnlineDVDclass.com)**

**WHAT THIS NOTICE CONTAINS**

**BASIC INFORMATION.....PAGE 3**

1. Why is there a notice?
2. What is the lawsuit about?
3. Why is there a Settlement with Wal-Mart but the lawsuit against Netflix is continuing?
4. Why is there a class action?

**THE NETFLIX LITIGATION CLASS.....PAGE 3**

5. How do I know if I'm part of the Netflix Litigation Class?
6. What rights do I have in the Netflix Litigation Class?
7. How and when will the Court decide who is right?
8. Will I get benefits after the trial?

**THE WAL-MART SETTLEMENT CLASS.....PAGE 5**

9. How do I know if I'm part of the Wal-Mart Settlement Class?
10. Why is there a Settlement?
11. What does the Settlement provide?
12. How can I get benefits?
13. When can I get benefits?
14. What are my rights in the Wal-Mart Settlement Class?
15. What am I giving up to stay in the Wal-Mart Settlement Class?
16. When and where will the Court decide whether to approve the Settlement?
17. Do I have to come to the hearing?
18. May I speak at the hearing?

**THE LAWYERS REPRESENTING YOU.....PAGE 8**

19. Do I have a lawyer in the case?
20. How will the lawyers be paid?

**GETTING MORE INFORMATION.....PAGE 9**

21. How do I get more information?

## BASIC INFORMATION

### 1. Why is there a notice?

You have the right to know about a lawsuit and about your legal rights and options before the Court or a jury decides whether the claims being made against Netflix have any basis and whether to approve the Wal-Mart Settlement.

The Court in charge of the case is the United States District Court for the Northern District of California, and the case is called *In re: Online DVD Rental Antitrust Litigation*, MDL No. 2029. The people who sued are called Plaintiffs, and the companies they sued, Wal-Mart Stores Inc. and Walmart.com USA LLC (together called “Wal-Mart”) and Netflix, Inc. (“Netflix”) are called the Defendants.

### 2. What is the lawsuit about?

The lawsuit claims that Wal-Mart and Netflix reached an unlawful agreement under which Wal-Mart would withdraw from the online DVD rental market and Netflix would not sell new DVDs. The lawsuit claims that this agreement caused Netflix subscribers to pay higher prices for online DVD rentals. Wal-Mart and Netflix deny: (1) that they entered into such an agreement, (2) that they have done anything wrong, (3) that the Plaintiffs have been harmed in any way, or (4) that the price of online DVD rentals was raised or inflated by any agreement between Wal-Mart and Netflix.

### 3. Why is there a Settlement with Wal-Mart but the lawsuit against Netflix is continuing?

Netflix has not agreed to settle and continues to believe that the lawsuit has no basis. Additional money may become available in the future as a result of a trial or future settlement with Netflix. On November 22, 2011, the Court granted Netflix’s Motion for Summary Judgment, resulting in the dismissal of the lawsuit. Plaintiffs can appeal this decision.

### 4. Why is there a class action?

In a class action, one or more people, called class representatives (in this case, Bryan Eastman, Amy Latham, Melanie Salvi, Stan Magee, Michael Orozco, Andrea Resnick, Liza Sivek, Michael Weiner, and Scott Caldwell) sue on behalf of people who have similar claims. All of the people with similar claims comprise the “class” and are referred to as “class members”, except for those who exclude themselves from the class. U.S. District Judge Hamilton in the United States District Court for the Northern District of California is in charge of this class action.

## THE NETFLIX LITIGATION CLASS

### 5. How do I know if I am part of a Netflix Litigation Class?

The Netflix Litigation Class is as follows:

**Netflix Litigation Class:** Any person or entity in the United States that paid a subscription fee to Netflix anytime from May 19, 2005 to September 30, 2010.

**For More Information: Call 1-877-389-4469 or Visit [www.OnlineDVDclass.com](http://www.OnlineDVDclass.com)**

You may be included in both the Netflix Litigation Class and the Wal-Mart Settlement Class (*see* Question 9). You must have paid for a subscription to qualify for benefits. You are not included in the Litigation Class if you only had a free trial subscription.

#### **6. What rights do I have in the Netflix Litigation Class?**

**Remain in the Netflix Litigation Class:** If you wish to remain in the Netflix Litigation Class, you do not need to take any action at this time. If there is a recovery from Netflix, you may receive further instructions at that time.

**Get out of the Netflix Litigation Class:** If you wish to keep your individual right to sue Netflix about the claims in this case, you must exclude yourself from the Netflix Litigation Class.

To exclude yourself from the Netflix Litigation Class, you must send a letter that includes the following:

- Your name, address, and telephone number,
- The name of the case (*In re: Online DVD Rental Antitrust Litigation*, MDL No. 2029),
- A statement that you want to be excluded from the Netflix Litigation, and
- Your signature and date.

You must mail your exclusion request, postmarked no later than **February 14, 2012**, to:

Netflix Litigation Exclusions  
P.O. 2602  
Faribault, MN 55021-9602

Unless you exclude yourself from the Netflix Litigation Class, you give up the right to individually sue Netflix for the claims asserted in the lawsuit. If you have a pending lawsuit against Netflix, speak to your lawyer in that lawsuit immediately. You must exclude yourself from the Netflix Litigation Class to continue your own lawsuit against Netflix.

#### **7. How and when will the Court decide who is right?**

On November 22, 2011, the Court granted Netflix's Motion for Summary Judgment, resulting in the dismissal of the lawsuit. Plaintiffs can appeal this decision. Check the website at [www.OnlineDVDclass.com](http://www.OnlineDVDclass.com) to be kept informed of the trial schedule. If there is a trial, a jury will hear all of the evidence and then make a decision about whether the Plaintiffs have proven their claims against Netflix in the lawsuit. There is no guarantee that the Plaintiffs will win or that they will receive any money or benefits for the Netflix Litigation Class as a result of the trial.

#### **8. Will I get benefits after the trial?**

If the Plaintiffs obtain money or benefits as a result of a trial or future settlement with Netflix, you will be notified about how to ask for a share or what your other options are at that time. These things are not known right now and additional money or benefits may not become available. Important information about the case will be posted on the website, [www.OnlineDVDclass.com](http://www.OnlineDVDclass.com), as it becomes available. Please register at the website to be kept informed about any future distributions.

**For More Information: Call 1-877-389-4469 or Visit [www.OnlineDVDclass.com](http://www.OnlineDVDclass.com)**

## THE WAL-MART SETTLEMENT CLASS

### 9. How do I know if I am part of the Wal-Mart Settlement Class?

The Wal-Mart Settlement Class includes the following:

Any person or entity living in the United States or Puerto Rico that paid a subscription fee to rent DVDs online from Netflix anytime from May 19, 2005 to and including **September 2, 2011**.

You must have paid for a subscription to qualify for benefits. You are not included in the Wal-Mart Settlement Class if you only had a free trial subscription.

### 10. Why is there a Settlement?

Wal-Mart is not admitting that it did anything wrong, but both sides want to avoid the cost of further litigation. The Court has not decided in favor of the Plaintiffs or Wal-Mart. The Class Representatives and their attorneys think the Settlement is best for everyone who is affected. The Settlement provides the opportunity for benefits to Class Members.

### 11. What does the Settlement provide?

Wal-Mart has agreed to pay \$27,250,000 to compensate Class Members who file valid claims. The cash component of the Settlement will pay attorneys' fees and costs, payments to the Class Representatives, and administrative costs (see Question 20). Class Members can decide whether they want to request a cash payment or a Wal-Mart gift card. The amount of the cash payment or gift card will be based on the total number of valid claims filed (see Question 12).

Class Counsel will ask the Court to award the following: (1) attorneys' fees up to 25% of the Settlement Fund, plus costs that Class Counsel estimate at up to \$1.7 million, (2) administration and notice costs, and (3) \$5,000 for each of the Class Representatives (up to \$80,000 total which could include the class representatives from cases filed in California state courts). After these fees and costs are deducted from the Settlement Fund, the remaining amount will be equally divided amongst the Wal-Mart Settlement Class Members who file valid claims.

Please note that you can give your gift card to someone else but it cannot be resold.

The Settlement Agreement describes more details about the Settlement. You can find a copy of the Settlement Agreement at [www.OnlineDVDclass.com](http://www.OnlineDVDclass.com).

### 12. How can I get benefits?

To ask for benefits, you need to complete and submit a Claim Form. Claim Forms are available at the website or by calling 1-877-389-4469. Please read the instructions carefully. Claim Forms can be completed and submitted online (for gift cards only) by **February 14, 2012** or mailed so that it is postmarked by that date, to:

Wal-Mart Settlement  
P.O. 2602  
Faribault, MN 55021-9602

**For More Information: Call 1-877-389-4469 or Visit [www.OnlineDVDclass.com](http://www.OnlineDVDclass.com)**

### 13. When will I get benefits?

Benefits will be distributed to Class Members after the Court grants “final approval” to the Settlement and after any appeals are resolved. The “final approval” hearing is scheduled to occur on March 14, 2012. If there are appeals to the final approval order, they can take time to resolve.

### 14. What are my rights in the Wal-Mart Settlement Class?

**Remain in the Wal-Mart Settlement Class:** If you wish to remain in the Wal-Mart Settlement Class and get benefits from the Settlement, you need to file a Claim Form (*see* Question 12).

**Get out of the Wal-Mart Settlement Class:** If you wish to keep your individual right to sue Wal-Mart about the claims in this case you must exclude yourself from *both* the Wal-Mart Settlement Class and the Netflix Litigation Class. However, you will lose the right to receive any benefits from the Settlement if you exclude yourself from the Wal-Mart Settlement Class.

To exclude yourself from the Wal-Mart Settlement Class, you must send a letter that includes the following:

- Your name, address, and telephone number,
- The name of the case (*In re: Online DVD Rental Antitrust Litigation*, MDL No. 2029),
- A statement that you want to be excluded from this Settlement, and
- Your signature and date.

You must mail your exclusion request, postmarked no later than **February 14, 2012**, to:

Wal-Mart Settlement Exclusions  
P.O. 2602  
Faribault, MN 55021-9602

By submitting an exclusion request, you will be excluded from the Wal-Mart Settlement Class.

If you want to bring your own separate lawsuit against Wal-Mart for the claims asserted in the lawsuit, you must exclude yourself from *both* the Wal-Mart Settlement Class and the Netflix Litigation Class. If you have a pending lawsuit against Wal-Mart, speak to your lawyer in that lawsuit immediately. You must exclude yourself from *both* the Wal-Mart Settlement Class and the Netflix Litigation Class to continue your own lawsuit.

**Remain in the Settlement Class and Object:** If you have comments about or disagree with any aspect of the Settlement, including the requested attorneys’ fees, you may express your views to the Court. The written response needs to include:

- Your name and address,
- The name of the case (*In re: Online DVD Rental Antitrust Litigation*, MDL No. 2029),
- The reasons you object to the Settlement,
- Copies of all documents that support your objection,
- Whether you intend to appear at the Fairness Hearing (*see* Question 18), and
- Your signature.

**For More Information: Call 1-877-389-4469 or Visit [www.OnlineDVDclass.com](http://www.OnlineDVDclass.com)**

The response must be postmarked no later than **February 14, 2012** and mailed to:

<b>COURT</b>	<b>CLASS COUNSEL</b>
The United States District Court for the Northern District of California Courtroom 3 1301 Clay Street Oakland, CA 94612	Robert G. Abrams Gregory L. Baker Baker & Hostetler LLP Washington Square, Suite 1100 1050 Connecticut Avenue, NW Washington, DC 20036-5304
<b>DEFENSE COUNSEL FOR WAL-MART</b>	<b>DEFENSE COUNSEL FOR NETFLIX, INC.</b>
Lawrence DiNardo Paula W. Render Jones Day 77 West Wacker Drive Chicago, IL 60601	Jonathan M. Jacobson David H. Reichenberg Wilson Sonsini Goodrich & Rosati Professional Corporation 1301 Avenue of the Americas, 40th Floor New York, NY 10019

You will have no right to object to the Settlement if you exclude yourself from the Wal-Mart Settlement Class.

**15. What am I giving up to stay in the Wal-Mart Settlement Class?**

Unless you exclude yourself from *both* the Wal-Mart Settlement Class and the Netflix Litigation Class, you can't separately sue Wal-Mart, continue to sue Wal-Mart, or be part of any other lawsuit against Wal-Mart involving the legal issues in this case. You also will be bound by any decisions by the Court relating to the Settlement. The "Release of Claims" is described more fully in the Settlement Agreement and describes exactly the legal claims that you give up if you get benefits from that Settlement. The Settlement Agreement is available at [www.OnlineDVDclass.com](http://www.OnlineDVDclass.com).

**16. 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 **March 14, 2012**, at the United States District Court for the Northern District of California, located at 1301 Clay Street, Oakland, CA, 94612, in Courtroom #3. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check [www.OnlineDVDclass.com](http://www.OnlineDVDclass.com). At this 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 Class Representatives. 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.

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

No. Class Counsel will answer any questions the Court may have. But, you are welcome to come at your own expense. If you send an objection or comment, 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.

**For More Information: Call 1-877-389-4469 or Visit [www.OnlineDVDclass.com](http://www.OnlineDVDclass.com)**

**18. 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.” In your letter you must include the following:

- Your name, address, and telephone number,
- The name of the case (*In re: Online DVD Rental Antitrust Litigation*, MDL No. 2029),
- The name, address, and telephone number of any attorney(s) who will be appearing on your behalf at the Fairness Hearing,
- A brief statement detailing what you will be presenting to the Court, and
- Your signature.

You must mail your Notice of Intention to Appear which must be postmarked no later than **February 14, 2012** and mailed to:

<b>COURT</b>	<b>CLASS COUNSEL</b>
The United States District Court for the Northern District of California Courtroom 3 1301 Clay Street Oakland, CA 94612	Robert G. Abrams Gregory L. Baker Baker & Hostetler LLP Washington Square, Suite 1100 1050 Connecticut Avenue, NW Washington, DC 20036-5304
<b>DEFENSE COUNSEL FOR WAL-MART</b>	<b>DEFENSE COUNSEL FOR NETFLIX, INC.</b>
Lawrence DiNardo Paula W. Render Jones Day 77 West Wacker Drive Chicago, IL 60601	Jonathan M. Jacobson David H. Reichenberg Wilson Sonsini Goodrich & Rosati Professional Corporation 1301 Avenue of the Americas, 40th Floor New York, NY 10019

**THE LAWYERS REPRESENTING YOU**

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

Yes. The Court has appointed “Class Counsel” to represent you and all Class Members: Robert G. Abrams of Baker & Hostetler LLP; Guido Saveri of Saveri & Saveri, Inc.; David Sorensen of Berger & Montague, P.C.; Joseph Tabacco, Jr. of Berman DeValerio; and Eugene Spector of Spector Roseman Kodroff & Willis, P.C.

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.

**For More Information: Call 1-877-389-4469 or Visit [www.OnlineDVDclass.com](http://www.OnlineDVDclass.com)**

## **20. How will the lawyers be paid?**

The Court will decide how much Class Counsel will be paid. Class Counsel will ask the Court to award (1) attorneys' fees up to 25% of the Settlement Fund, plus costs that Class Counsel estimate at up to \$1.7 million, (2) administration and notice costs, and (3) \$5,000 for each of the Class Representatives (up to \$80,000 total which could include the class representatives from cases filed in California state courts). These awards and costs will be paid out of the cash part of the Settlement.

## **GETTING MORE INFORMATION**

## **21. How do I get more information?**

The Notice summarizes the lawsuit and the proposed Settlement. You can get more information about the lawsuit and Settlement at [www.OnlineDVDclass.com](http://www.OnlineDVDclass.com). You may also write with questions to: Wal-Mart/Netflix Online DVD Class, P.O. 2602, Faribault, MN 55021-9602. You can also get a Claim Form at the website, or by calling the toll free number, 1-877-389-4469.

**For More Information: Call 1-877-389-4469 or Visit [www.OnlineDVDclass.com](http://www.OnlineDVDclass.com)**