

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

GEORGE MCREYNOLDS, MAROC HOWARD,)	
LARUE GIBSON, JENNIFER MADRID,)	
FRANKIE ROSS, MARVA YORK, LESLIE)	
BROWNE, HENRY WILSON, LEROY BROWN,)	
GLENN CAPEL, CHRISTINA COLEMAN,))
J. YVES LABORDE, MARSHELL MILLER,)	
CARNELL MOORE, MARK JOHNSON,)	
CATHY BENDER-JACKSON, and STEPHEN)	
SMARTT, individually on behalf of themselves)	
and all others similarly situated,)	
)	
Plaintiffs,)	No. 05 C 6583
v.)	
)	Judge Robert W. Gettleman
MERRILL LYNCH, PIERCE, FENNER &)	
SMITH INCORPORATED,)	
)	
Defendant.)	

CLASS CERTIFICATION ORDER

Before this Court is Plaintiffs' motion for certification pursuant to Federal Rule of Civil Procedure ("Fed.R.Civ.P.") 23. Having considered the parties' submissions and written and oral arguments, and in accordance with the February 24, 2012, Opinion of the United States Court of Appeals for the Seventh Circuit, the Court finds that the proposed disparate impact class meets all elements of Fed.R.Civ.P. 23(a), as well as Fed.R.Civ.P. 23(c)(4) and Fed.R.Civ.P. 23(b)(2), and so grants certification of the disparate impact class and issues the following ruling pursuant to Fed.R.Civ.P.23(c)(1)(B):

IT IS HEREBY ORDERED, that class certification is granted pursuant to Fed.R.Civ.P. 23(b)(2) and 23(c)(4) and a class is hereby certified of all African Americans employed by Merrill Lynch at any time since July 10, 2004 as Financial Advisors or Financial Advisor

Trainees assigned a production number in the domestic U.S. retail brokerage unit within the “Global Private Client” division of Merrill Lynch; and it is further

ORDERED, that pursuant to Fed.R.Civ.P. 23(c)(4), the class action certified pursuant to Fed.R.Civ.P. 23(b)(2) shall be limited to determining the issues of: (I) whether Defendant’s teaming and/or account distribution policies have or had an unlawful disparate impact on the certified class; and (ii) if so, the appropriateness of any class-wide final injunctive and corresponding declaratory relief; and it is further

ORDERED, that pursuant to Fed.R.Civ.P. 23(c)(1)(B), upon consideration of the factors set forth in Fed.R.Civ.P. 23(g)(1) and (g)(4), Linda D. Friedman (lead trial attorney), Suzanne E. Bish, George S. Robot, and Jennifer Gilbert, Stowell & Friedman, Ltd., and Mary Stowell, Of Counsel to Stowell & Friedman, Ltd., are appointed as counsel for the class (“Class Counsel”); and it is further

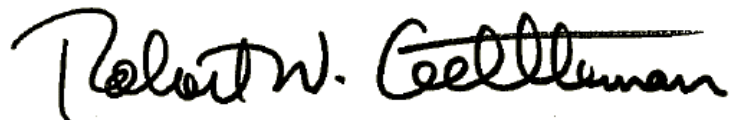
ORDERED, that named Plaintiffs George McReynolds, Maroc Howard, LaRue Gibson, Jennifer Madrid, Frankie Ross, Marva York, Leslie Browne, Henry Wilson, Leroy Brown, Glenn Capel, Christina Coleman, Marshall Miller, Carnell Moore, Mark Johnson, Cathy Bender-Jackson, and Stephen Smartt are appointed as representatives of the certified class (“Class Representatives”). Defendant represents that it waives any objection to the service of the foregoing as Class Representatives on the ground that any Plaintiffs have not filed a Charge of Discrimination with the Equal Employment Opportunity Commission but rely instead on representative Charges of Discrimination filed by Plaintiffs Howard, Wilson and York; and it is further

ORDERED, that pursuant to Fed.R.Civ.P. 23(c)(2)(A), the Court finds that it is appropriate to send notice to the class that has been certified pursuant to Fed.R.Civ.P. 23(b)(2) in order to ensure due process by making the class members aware of the class and issues that were certified; and pursuant to Rule 23(d)(1)(B)(I), to send notice to all former putative class members of the disparate treatment class; and it is further

ORDERED, that the Court approves the notice in the form attached to this Order as Exhibit A, which shall be sent to all members of the class and all former putative class members of the putative disparate treatment class. Plaintiffs shall retain and pay the costs of an outside service to perform the mailing and other dissemination of the notice. Defendant shall provide to Class Counsel and such outside service the list of persons who will receive each notice no later than July 20, 2012. Class Counsel shall at all times maintain the confidentiality of this list. The mailing of notices to class members and former putative class members shall be completed by August 3, 2012; and it is further

ORDERED, that by agreement of the parties, the stay of all proceedings for absent class members and the toll of the limitations period for their individual claims shall expire on November 13, 2012. Defendant's motion to lift stay (Doc. 468) is denied as moot.

ENTER: July 13, 2012



Robert W. Gettleman
United States District Judge

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

**NOTICE WITH RESPECT TO RACE DISCRIMINATION CLASS ACTION
AGAINST MERRILL LYNCH, PIERCE, FENNER & SMITH, INCORPORATED.**

A federal court has authorized this Notice. This is not a solicitation from a lawyer.

**TO: ALL AFRICAN AMERICANS EMPLOYED AS FINANCIAL ADVISORS
OR FINANCIAL ADVISOR TRAINEES BY MERRILL LYNCH, PIERCE,
FENNER & SMITH, INCORPORATED AT ANY TIME SINCE MAY 6,
2001.**

I. INTRODUCTION

You have received this Notice because the employment records of Merrill Lynch, Pierce, Fenner & Smith Incorporated (“Merrill Lynch”) show that you meet the definition above and your legal rights may be affected by the race discrimination class action lawsuit, *McReynolds et al. v. Merrill Lynch*, Case No. 05 C 6583 (N.D. Ill.)(the “Lawsuit”).

II. NATURE AND OVERVIEW OF THE LAWSUIT

In 2005 and 2006, a group of African American Plaintiffs filed claims of race discrimination against Merrill Lynch on behalf of current and former African American Financial Advisors and Financial Advisor Trainees. The Lawsuit alleged that Merrill Lynch was engaged in both intentional and disparate impact, discrimination and denied African Americans business opportunities, including teaming and client account distributions, resulting in the lower pay to and higher attrition of African Americans. Merrill Lynch denies any wrongdoing. The Court has not ruled on the merits of the claims or defenses.

On July 13, 2012, United States District Judge Robert W. Gettleman entered an Order certifying a class action to challenge Merrill Lynch’s account distribution and teaming policies (the “Class Claims”). The class includes African Americans employed as Merrill Lynch Financial Advisors and Financial Advisor Trainees at any time since July 10, 2004 (the “Disparate Impact Class”), as further defined in Section IV below. The Plaintiffs’ intentional discrimination claims were not certified for class treatment.

III. WHAT IS A CLASS ACTION?

In a class action lawsuit, one or more persons called “Class Representatives” sue on behalf of other people (“Class Members”) who have similar claims against the same employer.

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

IV. CLASS DEFINITION – AM I A CLASS MEMBER?

You are a member of the Disparate Impact Class if you were employed as a Merrill Lynch Financial Advisor or Financial Advisor Trainee and assigned a production number in the domestic U.S. retail brokerage unit within the “Global Private Client” division of Merrill Lynch at any time since July 10, 2004. The class definition includes Financial Advisors or Financial Advisor Trainees who are or were employed in domestic branch offices but also service or serviced non-resident clients.

You are *not* a member of the Disparate Impact Class if your employment as a Merrill Lynch Financial Advisor or Financial Advisor Trainee ended prior to July 10, 2004. However, you may still be able to pursue claims of race discrimination against Merrill Lynch which will not be prosecuted in this class action. *See* Sections VIII and IX below.

V. CLASS CLAIMS AND THE RELIEF SOUGHT

The Disparate Impact Class is being pursued under federal law, 42 U.S.C. Sec. 2000e (“Title VII”), and has two primary purposes:

- (1) Liability: to determine whether the Merrill Lynch account distribution and teaming policies had or have an unlawful disparate impact on African Americans
- (2) Injunctive and Declaratory Relief: If the Court finds Merrill Lynch’s policies of account distribution and teaming are racially discriminatory, it will issue an injunction to reform Merrill Lynch’s policies and to end the discrimination.

If the Court finds Merrill Lynch’s account distribution and teaming policies are discriminatory, then each Class Member may seek relief in subsequent proceedings for the harm caused to them by these unlawful policies. This individual relief may include monetary relief and/or reinstatement as a Financial Advisor or Trainee at Merrill Lynch.

The Class Claims do not include claims of intentional race discrimination or disparate impact discrimination relating to policies of Merrill Lynch other than account distribution or teaming.

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

VI. WHAT ARE MY OPTIONS IF I AM A CLASS MEMBER?

If you are a Class Member you do not need to do anything to remain a part of the Disparate Impact Class. If you are a Class Member you will be bound by the judgment or settlement of the Disparate Impact Class claims, whether it is favorable or unfavorable to you.

Non-Class Claims: If you wish to pursue claims for intentional race discrimination, for disparate impact discrimination relating to policies of Merrill Lynch other than account distribution or teaming, or for other non-class claims, you may do so on your own or with the assistance of a lawyer. *See* Section VIII.

VII. MAY I OPT OUT OF THE DISPARATE IMPACT CLASS?

You may *not* opt out of the Disparate Impact Class.

VIII. WHAT IF I HAVE CLAIMS OF INTENTIONAL RACE DISCRIMINATION OR OTHER DISCRIMINATION CLAIMS NOT COVERED BY THE CLASS?

The Disparate Impact Class does not include claims of intentional discrimination or claims of discrimination under state and local laws. Therefore, any claim that you may have against Merrill Lynch for intentional discrimination or disparate impact other than with respect to the two Merrill Lynch policies certified, and/or under state law is not being pursued as part of the Disparate Impact Class.

You may, however, still pursue your non-class claims on your own or with the assistance of a lawyer. The *McReynolds* Lawsuit acted to “toll,” or stop from running, the statutes of limitations, or deadlines by which to file administrative race discrimination charges and/or lawsuits asserting race discrimination claims under federal law. This “tolling” of your non-class race discrimination claims under federal law will end on November 13, 2012. If you wish to pursue any non-class race discrimination claims, you must act to preserve your rights.

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

IX. MERRILL LYNCH EMPLOYMENT ENDED BEFORE JULY 10, 2004

If your employment as a Merrill Lynch Financial Advisor or Financial Advisor Trainee ended prior to July 10, 2004, you are *not* a member of the Disparate Impact Class. However, you may still have and be able to pursue claims of race discrimination, including claims of intentional or disparate impact race discrimination, against Merrill Lynch. The Lawsuit “tolled” or halted the statute of limitations, or legal deadlines associated with your discrimination claims under federal law. If you wish to preserve any claims you may have, you must act either on your own or with the assistance of a lawyer. This “tolling” will end on November 13, 2012.

X. COUNSEL FOR PLAINTIFFS AND CLASS

The Court appointed the following attorneys as Class Counsel to represent the class:

Linda D. Friedman
Suzanne E. Bish
George S. Robot
Jennifer Gilbert
Mary Stowell

STOWELL & FRIEDMAN, LTD.
303 W. Madison, 26th floor
Chicago, Illinois 60606
(312) 431-0888
<http://stowellfriedman.com>

The Court has appointed Stowell & Friedman, Ltd. to represent you only with respect to the issues that have been certified for class-wide treatment. If you have any questions about this Notice, or about the Lawsuit, you may contact Class Counsel at the number and address listed above, or review case information and certain of the Court’s orders and filings available at the case website maintained by Class Counsel at www.merrillclassaction.com.

You may hire your own lawyer to appear in Court for you, but you may be responsible for paying that lawyer’s fees and expenses.

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

XI. COUNSEL FOR DEFENDANT MERRILL LYNCH

The attorneys representing Defendant Merrill Lynch are:

MAYER BROWN LLP
71 S. Wacker Drive
Chicago, IL 60606
Lori E. Lightfoot

WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, NY 10153
Nicholas J. Pappas
Jeffrey S. Klein
Allan Dinkoff

As class members are represented by Counsel for the Class, class members should not contact Merrill Lynch or counsel for Merrill Lynch regarding this Notice or the disparate impact class action lawsuit.

XII. FURTHER INFORMATION

If you have any questions about this Notice, the Lawsuit, or your rights, you may contact Class Counsel at Stowell & Friedman, Ltd., at the number and address listed at Section X, on page 4, or a lawyer of your own choosing.

Court filings and the Court's Orders are available on-line for a fee through the Court's public access system, known as PACER, at www.pacer.gov.

THIS NOTICE AND ITS CONTENTS HAVE BEEN AUTHORIZED BY THE FEDERAL DISTRICT COURT, THE HONORABLE JUDGE ROBERT W. GETTLEMAN. THIS NOTICE SHOULD NOT BE CONSTRUED AS A SUGGESTION THAT YOU SHOULD TAKE ANY FURTHER ACTION, NOR SHOULD IT BE CONSTRUED AS ADVICE BY THE COURT REGARDING THE AMOUNT OF TIME WITHIN WHICH YOU MAY TAKE SUCH ACTION. THE COURT HAS TAKEN NO POSITION IN THIS LAWSUIT REGARDING THE MERITS OF THE PLAINTIFFS' CLAIMS OR OF THE DEFENDANT'S DEFENSES.

DO NOT CONTACT THE JUDGE, THE COURT OR THE COURT CLERK OR MERRILL LYNCH WITH QUESTIONS ABOUT THIS LAWSUIT OR NOTICE.