

Juan Duarte, et al. v. United States Metals Refining Company, et al.;
Civil Action No. 2:17-cv-01624; United States District Court for the District of New Jersey

If you own property located near the former USMR Smelter in the Southeast corner of Carteret, New Jersey, you may be entitled to a payment from a class action settlement.

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

- The Settlement will create a cash settlement fund that equals approximately \$42,000,000, which will be used to pay (i) cash payments to eligible property owners; (ii) Class Counsel's attorneys' fees and expenses, (iii) Class Representative incentive awards, and (iv) settlement administration costs in excess of \$250,000 (if any).
- United States Metals Refining Company ("USMR") has spent more than \$61 million to date on community outreach, sampling and analysis, environmental remediation, and reporting associated with a residential cleanup program under the oversight of the New Jersey Department of Environmental Protection ("NJDEP"). The settlement benefits also include the Settlement Class Counsel's contribution to this NJDEP cleanup program.
- The Settlement will pay eligible owners of residential real property identified in the area indicated on the attached map (the "Class Area") to settle claims related to alleged property damages allegedly caused by the historical operation of the USMR Smelter in Carteret, New Jersey and/or the alleged failure to properly test and remediate any contaminants from that operation. The payments will be made in exchange for agreement to a release of claims against USMR and the other Defendants as more fully set forth in this notice.
- If you own or owned residential property in the Class Area between January 30, 2017 and March 28, 2023, then you are a class member. Consult the Class Area map included with this notice or go to **www.CarteretSmelterSettlement.com** for a listing of eligible property addresses.
- If you are a class member, your legal rights are affected whether you act or don't act. Read this notice carefully.

Questions? Call toll-free 1-844-798-0743 or visit www.CarteretSmelterSettlement.com

PLEASE DO NOT CONTACT THE COURT

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
Submit a Claim and Release Form	The only way to get a cash payment.
Exclude Yourself	Get no payment. This is the only option that allows you to possibly ever be part of any other lawsuit against United States Metals Refining Company, Freeport Minerals Corporation, Freeport-McMoRan Inc., and Amax Realty Development, Inc. that relates to the legal claims in this case. Exclude yourself by submitting a request to the Settlement Administrator and Parties as explained in answer to question 16 below.
Object	Write to the Court about why you do not agree with the Settlement but remain a class member.
Go To a Hearing	Ask to speak in Court about the fairness of the Settlement, but you must remain a class member to speak.
Do Nothing	Get no payment. Give up rights.

- These rights and options—and the deadlines to exercise them—are explained in this notice. Additional information is available at **www.CarteretSmelterSettlement.com**.
- The Court in charge of this case still must decide whether to approve the Settlement. Payments will be made if the Court approves the Settlement and after appeals are resolved. Please be patient.

Questions? Call toll-free 1-844-798-0743 or visit www.CarteretSmelterSettlement.com

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Questions? Call toll-free 1-844-798-0743 or visit www.CarteretSmelterSettlement.com

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BASIC INFORMATION

1. Why did I get this notice package?

The Court sent you this notice because you have a right to know about a proposed settlement of a class action lawsuit, and about your options, before the Court decides whether to approve the Settlement. If the Court approves it, and after objections and appeals are resolved, property owners in the Class Area will receive the settlement benefits described in this notice.

This package explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of the case is the United States District Court for the District of New Jersey and the case is known as *Juan Duarte, et al. v. United States Metals Refining Company, et al.*, Civil Action No. 2:17-cv-01624. The people who sued are called the Plaintiffs, and the companies they sued, United States Metals Refining Company (USMR), Freeport Minerals Corporation, Freeport-McMoRan Inc., and Amax Realty Development, Inc., are called the Defendants.

2. What is this lawsuit about?

This lawsuit arises out of the historic operations of the former USMR Smelter Site located in Carteret, New Jersey. The lawsuit claims that properties in the Class Area have been damaged by the releases of lead, arsenic, and other contaminants from the historic operation of the Smelter Site. The lawsuit also claims that the manner in which Defendants tested and remediated contaminants from the Smelter Site was inadequate and has caused and continues to cause damage to properties in the Class Area. The Defendants deny that they have done anything wrong.

3. Why is this a class action?

In a class action, one or more people, called Class Representatives (for example, in this case, Juan Duarte and Betsy Duarte), sue on behalf of people who have similar claims. All these people are a “Class” or “Class Members.” One court resolves the issues for all Class Members, except for those who exclude themselves from the Class. Judge Michael Hammer is in charge of this class action settlement.

4. Why is there a settlement?

The Court did not decide in favor of the Plaintiffs or the Defendants. Instead, both sides agreed to a settlement. That way, they avoid the costs and risk of a trial, and the people affected will receive compensation. The Class Representatives and the attorneys think the Settlement is best for Class Members who believe they were injured.

WHO IS IN THE SETTLEMENT

In order to get money from this settlement, you must be a Class Member.

Questions? Call toll-free 1-844-798-0743 or visit www.CarteretSmelterSettlement.com

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6. Which companies are included in the “Defendants”?

The Defendants are United States Metals Refining Company, Freeport Minerals Corporation, Freeport-McMoRan Inc., and Amax Realty Development, Inc.

7. If I own property in the Class Area but I don’t think it is damaged, am I included?

Yes, you are still included in the Class and are entitled to benefits as long as you own property in the Class Area, even if you do not believe your property was actually damaged.

8. I’m still not sure if I am included.

If you are still not sure whether you are included, you can ask for free help. You can call **1-844-798-0743** and ask for assistance in determining whether you are a member of the Class or you can visit **www.CarteretSmelterSettlement.com**, which contains a complete list of addresses within the Class Area. The website also contains additional details about the Settlement.

If you are a Class Member, the Claim and Release Form is attached to this Notice.

9. If my property was previously tested or remediated by the Defendants or I received other benefits from the Defendants in connection with the operation of the Smelter, am I still eligible to participate in this settlement?

Yes. If you previously participated in the NJDEP program or other prior environmental testing and remediation work in the vicinity of the USMR Smelter Site, you are still eligible to participate.

THE SETTLEMENT BENEFITS—WHAT YOU GET

10. What does the Settlement provide?

In accordance with the Settlement Agreement, USMR must place Forty-Two Million Dollars (\$42,000,000) in a court-administered fund to settle this matter. In addition, Defendants have also negotiated a separate proposed settlement with certain property owners outside of the Class Area (the “Settling Individual Homeowners”). In the event that the total aggregate of payments to all Settling Individual Homeowners (which include Settlement Individual Homeowners’ attorneys’ fees and costs) is less than Two Million Dollars (\$2,000,000), USMR will also pay the remaining amount to reach a total of \$2 million to the court-administered fund for this class settlement.

The Settlement provides for a monetary payment to the owners of each eligible property. The exact amount of any final payment to the property owners will depend on the Court’s award of attorneys’ fees and expenses, the Court’s award of class representative incentive awards, the costs of settlement administration, and the remaining amount (if any) from the Settling Individual Homeowners payments. The eligible property payment amount will be calculated by the Settlement Administrator once all of these other costs are known. Your fraction of this per-property payment will be based on the duration of your ownership during the period January 30, 2017 through March 27, 2023 (the Class Period). However, based on reasonable estimates of the above costs, the Settlement Class Counsel and Defendants estimate that each eligible property

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will entitle its owner(s) during the Class Period to payment(s) that when added together equal a total of approximately \$17,500 per eligible property. To the extent that individual Class Members do not file Claim and Release Forms and participate in the settlement benefits, USMR may be entitled to a reversion of unclaimed settlement funds, but this reversion will not exceed 30% of the amount in the settlement fund after deduction of Class Counsel's attorneys' fees, costs and expenses, and payment of approved incentive awards.

11. What if there are multiple people who own or have owned my property?

In order to be included in the Settlement, you must have owned your property at any time during the period January 30, 2017 through March 27, 2023.

If you owned property during this period, but someone else owned the property either before or after you and also during this time period, payments for your property will be divided among you and the other owner based on how long you each owned the property within the Class Period.

If multiple people own the property at the same time and each of them files a valid Claim and Release Form, the Settlement Administrator will write a single check payable to all co-owners of the property.

12. What if I find out later that my property has been damaged?

If your property may have been damaged as a result of the historical operation of the USMR Smelter, you must send in a Claim and Release Form now. If you do not send in a Claim and Release Form, you will not receive benefits under the Settlement. If you do not exclude yourself, any claims that you may have related to your property in the Class Area arising from the historical operation of the USMR Smelter Site or the environmental cleanup will be forever barred. Therefore, you must send in a Claim and Release Form now if you want compensation through this settlement. There is no procedure to receive payment through this settlement at a later time. If you do not exclude yourself, you will be waiving your right to file any other claim even if you find out later that your property had been damaged as a result of historical operation of the USMR Smelter. See Section 15 below.

**HOW YOU GET THE SETTLEMENT BENEFITS—
SUBMITTING A CLAIM AND RELEASE FORM**

13. How can I get a payment?

To qualify for a payment, you must send in a Claim and Release Form and all required documentation. A Claim and Release Form is attached to this Notice. Read the instructions carefully, fill out the form, include all documents the form asks for, sign it, and mail it postmarked no later than June 26, 2023. You may also complete this Claim and Release Form online at www.CarteretSmelterSettlement.com with the login information provided with your Claim and Release Form.

14. When would I get a payment?

The Court will hold a hearing called a “Fairness Hearing” on July 26, 2023 at 2 p.m. eastern time to decide whether to approve the Settlement. The hearing will be via Zoom. The link for the Zoom hearing will be published on the website at www.CarteretSmelterSettlement.com. Please see the answers to questions 23, 24, and 25 for the requirements to participate in the hearing. If the Court approves the Settlement, there may be appeals. It’s always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. Please be patient.

15. What am I giving up if I remain in the Class?

Unless you exclude yourself, you will remain a member of the Class, and that means that you can’t sue, continue to sue, or be part of any other lawsuit against the Defendants related to the legal issues in *this* case. It also means that all of the Court’s orders will apply to you and legally bind you. If you sign the Claim and Release Form, you will agree to a “General Release of Claims”, which describes exactly the legal claims that you give up if you get settlement benefits. Even if you do not submit a Claim and Release Form, you will give up these legal claims unless you exclude yourself from the Class (the specific requirements to exclude yourself are described below in answer to question 16).

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you don’t want a payment from this settlement, but you want to keep the right to sue or continue to sue the Defendants on your own about the legal issues in this case, then you *must* take steps to get out of the Class. This is called excluding yourself—or it is sometimes referred to as “opting out” of the Class. The answer to question 16 below explains the process for excluding yourself from the settlement.

16. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must send a letter by mail saying that you want to be excluded from *Juan Duarte, et al. v. United States Metals Refining Company, et al.*; Civil Action No. 2:17-cv-01624; United States District Court for the District of New Jersey. Be sure to include your name, address, telephone number, and your signature. Your exclusion request must clearly state your desire not to be included in the Settlement. You must mail your exclusion request postmarked no later than **June 26, 2023** to:

Duarte v. U.S. Metals Refining Company
c/o JND Legal Administration
PO Box 91420
Seattle, WA 98111

You cannot exclude yourself on the phone or by e-mail. You cannot exclude anyone but yourself. For properties that are owned by more than one person, all persons with an ownership interest in the property must opt out for the exclusion request to be valid. If you ask to be excluded, you will not get any settlement payment, and you cannot object to the Settlement. You

will not be legally bound by anything that happens in this lawsuit. You may be eligible to sue (or continue to sue) the Defendants in the future.

17. If I don't exclude myself, can I sue the Defendants for the same thing later?

No. Unless you exclude yourself, you give up the right to sue the Defendants for the claims that this settlement resolves. If you have a pending lawsuit related to the USMR Smelter, speak to your lawyer in that lawsuit immediately. You must exclude yourself from *this* Class to continue your own lawsuit. Remember, the exclusion deadline is June 26, 2023.

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

No. If you exclude yourself, you do not send in a Claim and Release Form to ask for money. But, you may sue, continue to sue, or be part of a different lawsuit against the Defendants.

THE LAWYERS REPRESENTING YOU

19. Do I have a lawyer in this case?

The Court has asked Steven J. German and Joel M. Rubenstein of German Rubenstein, LLP; Christopher T. Nidel and Jonathan Nace of Nidel & Nace PLLC; W. Mark Lanier, Richard D. Meadow, Alex Brown, and Christopher L. Gadoury of The Lanier Law Firm, P.C.; and John M. Vlasac, Jr. and Boris Shmaruk of Vlasac & Shmaruk LLC to represent you and other Class Members. Together, the lawyers are called Class Counsel. 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?

Class Counsel may ask the Court for attorneys' fees up to \$21,000,000, including costs and expenses reasonably incurred in the Litigation. Additionally, Class Counsel may ask the Court for up to 50% in attorney's fees, including costs and expenses reasonably incurred in the litigation, from the cash payments to the Class, if any, from the Settling Individual Homeowners payments. These amounts will be paid from the settlement funds described above.

The first \$250,000 of costs to provide this notice to the Settlement Class Members and to administer the Settlement will also be paid by USMR. If settlement administration costs exceed \$250,000, then the balance will be paid from the settlement fund.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you don't agree with the Settlement or some part of it.

21. How do I tell the Court that I don't like the Settlement?

If you're a Class Member, you can object to the Settlement if you don't like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must send a letter saying that you object to *Juan Duarte, et al. v. United States Metals Refining Company, et al.*; Cause Action No. 2:17-cv-01624 and you must

specifically state your objections. The specific requirements applicable to filing objections are set out in the Settlement Agreement at Section 6, which is available on the website. Be sure to include the case name (*Juan Duarte, et al. v. United States Metals Refining Company, et al.*), the case number (Civil Action No. 2:17-cv-01624), your name, address, telephone number, your signature, and a detailed reason as to why you object to the Settlement. Mail the objection to the three places listed below, postmarked no later than **June 26, 2023**.

Courthouse

U.S. District Court for the District
of New Jersey
Martin Luther King Building &
Courthouse
50 Walnut Street Room 4015
Newark, NJ 07101

Settlement Class Counsel

Steven German
19 West 44th Street, Suite 1500
New York, NY 10036

Defendants' Counsel

James Thompson III
Vinson & Elkins LLP
Texas Tower
845 Texas Avenue
Houston, Texas 77002

22. What's the difference between objecting and excluding myself?

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 from the Class, you have no basis to object because the case no longer affects you.

THE COURT'S FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the Settlement. You may attend and you may ask to speak, but you don't have to.

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

The Court will hold a Fairness Hearing at 2 p.m. eastern time on July 26, 2023 via Zoom. The link for the zoom hearing will be published on the website at **www.CarteretSmelterSettlement.com**. You must follow the requirements described below if you wish to participate. At this hearing the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will listen to people who have attended and who have asked to speak at the hearing. If you want to speak at the hearing, follow the requirements described in answer to question 25 below. The Court may also decide how much to pay Class Counsel. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take.

To access the Zoom meeting, please visit **www.CarteretSmelterSettlement.com**.

24. Do I have to participate in the hearing?

No. Class Counsel will answer questions the Court 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 your own lawyer to attend, but it's not necessary.

25. 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 Intention to Appear in *Juan Duarte, et al. v. United States Metals Refining Company, et al.*; Civil Action No. 2:17-cv-01624.” Be sure to include your name, address, telephone number, and your signature. Your Notice of Intention to Appear must be postmarked no later than **June 26, 2023** and must be sent to the Court Clerk, Class Counsel, and Defendants’ Counsel at the three addresses listed in question 21. You should also consult the Preliminary Approval Order, which is available on the settlement website, for additional requirements related to speaking at the hearing and presenting evidence. You cannot speak at the hearing if you have excluded yourself or you do not or have not owned an eligible property during the Class Period.

IF YOU DO NOTHING

26. What happens if I do nothing at all?

If you do nothing at all, you’ll get no money from this settlement. But if you own or have owned an eligible property during the Class Period, unless you exclude yourself, you won’t be able to start a lawsuit, continue a lawsuit, or be part of any other lawsuit against the Defendants about the legal issues in this case ever again.

GETTING MORE INFORMATION

27. Are there more details about the settlement?

This Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement as well as other information on the Settlement by visiting:

www.CarteretSmelterSettlement.com

28. How do I get more information?

You can call toll free 1-844-798-0743 or visit **www.CarteretSmelterSettlement.com**.

DATE: April 19, 2023