



# Local businesses urged to claim big money from \$1.1 billion Microsoft settlement

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If you see people dressed like Monopoly money around town soon, be sure to grab one of their fake bills.

It is not Monopoly money, but something potentially far more valuable: instructions on how to claim tens of thousands of dollars from Microsoft (Nasdaq: MSFT) from a class-action lawsuit the company settled last year.

The Settlement Recovery Center, a San Francisco company that was not involved in the lawsuit or the settlement, plans to distribute flyers disguised as fake bills in San Diego soon. In radio ads that began airing locally Monday, the center promises to "maximize" business claims.

Microsoft settled the lawsuit brought on behalf of California businesses and consumers in January 2003 for \$1.1 billion. The settlement covers purchases of Microsoft products made between February 1995 and December 2001.

Plaintiffs' attorney Richard Grossman said Microsoft monopolized software markets for operating systems and key applications such as word processing and spreadsheets. Grossman is a partner in the San Francisco office of Townsend and Townsend and Crew LLP.

Consumers and businesses operating in California can recover \$16 for each copy they purchased of Microsoft's Windows or MS-DOS operating systems, \$29 for each copy of Microsoft Office, \$26 for each copy of Microsoft Excel and \$5 for each copy of Microsoft Word, Works Suite and Home Essentials 97 or 98.

A few bucks here or there may sound like small compensation, but it adds up quickly for a company with a lot of computer-using employees.

Grossman offered what he called a "conservative" example of a business claim.

Assume a company bought Windows and Microsoft Office licenses for each of its computers in 1995 and upgraded the software twice in the next seven years. At \$16 per operating system license and \$29 per Microsoft Office license, including upgrades, that's \$135 per computer. A business with 75 computers could claim more than \$10,000.

Payment comes in the form of vouchers that can be redeemed for cash -- for claimants that have recently bought new software and computer equipment -- or set aside for future purchases. And claimants do not have to use the vouchers for Microsoft products.

Despite the potential windfall, many businesses across the state are not filing claims, leaving millions of dollars still unclaimed. "Unfortunately, some people have misconceptions about class actions," Grossman said. He said the settlement represents 22 percent of what California businesses spent on Microsoft's products over the seven years covered in the settlement.

Robb Good, technology director at Sundt Construction's San Diego office, said his company filed a claim for its California offices, which have about 175 computer-using employees. Good said Sundt is receiving about \$14,000 from the settlement and could have asked for more. The Phoenix-based company decided to pull its records only as far as 2000.

Overall, he said, making the claim was relatively easy if you don't mind a little paperwork. "It was easy because we have good records," Good said. The company did not use the Settlement Recovery Center's services.

SRC's fee varies, but Howard Yellen, an attorney and entrepreneur, said the center charges about 20 percent of the claim for nonprofits and 30 percent for businesses. Yellen believes the cost is well worth it. For exam-

ple, he said the center has been able to get its clients an average of \$150 per computer compared with \$80 to \$90 per computer businesses might get on their own.

The child of a mail-order catalog worker, Yellen is a self-described junk mail hound. He created the business last fall after receiving a settlement claim notice in the mail. After hours of combing through the document, Yellen saw a tremendous business opportunity.

"I realized this was profoundly different and that businesses could get a lot back," Yellen said. "Every business in California should file a claim."

Once the settlement deadline expires, Yellen expects SRC to continue in the class-action business, perhaps even having a hand in making the settlement process more consumer-friendly. "I feel like we're really performing a service," Yellen said. "These legalistic notices that go out aren't sufficient."

In addition to radio ads, Yellen's company is using direct mail and e-mail to target businesses across the city and other major markets in California, according to SRC's marketing Vice President Scott Hunter. He said the center's Web site traffic was up about "7,000 percent" Monday following the radio campaign.

Making a claim requires little effort particularly considering how much money is at stake, according to Grossman. "It would be neglect not to make a claim," he said.

Claim forms are available through the settlement administrator at [www.microsoftalsettlement.com](http://www.microsoftalsettlement.com). SRC can be contacted through its Web site, [www.settlementrecovery.com](http://www.settlementrecovery.com).

Time is running out though. The deadline for filing claims was set for March 15 but has been extended until April 28. San Francisco Superior Court Judge Paul Alvarado will hear the final settlement agreement on March 29.

Microsoft spokeswoman Tina Austinson declined to comment on the settlement, deferring to a statement the company released when the agreement was reached in January 2003. Microsoft said it would donate two-thirds of unclaimed funds to California's "most needy public schools," for software, computer equipment or professional development. At the time, Microsoft general counsel Brad Smith called the settlement a "good resolution for all sides" that would avoid the costs and "uncertainty" of a trial.

Grossman said the federal government's antitrust case against Microsoft may have forced the company to change its business practices but did nothing to recover the cost of the alleged monopoly for businesses. Grossman and co-lead counsel Eugene Crew hired Jeffrey Mackie-Mason, an economist from the University of Michigan, to calculate how much Microsoft had overcharged customers.

"This is pioneering," Grossman said. He is now trying a separate class-action lawsuit against Microsoft that accuses the company of overcharging consumers in Minnesota.