

Peter Duggan et al.
v.
Wings Financial Credit Union

NOTICE OF PENDING CLASS ACTION AND PROPOSED SETTLEMENT

**READ THIS NOTICE FULLY AND CAREFULLY; THE PROPOSED SETTLEMENT
MAY AFFECT YOUR RIGHTS!**

IF YOU HAVE OR HAD A CHECKING ACCOUNT WITH WINGS FINANCIAL CREDIT UNION (“DEFENDANT”) AND YOU WERE CHARGED APPSN FEES OR RETRY FEES BETWEEN JANUARY 1, 2015, THROUGH MAY 17, 2019, THEN YOU MAY BE ENTITLED TO A PAYMENT AND/OR DEBT FORGIVENESS FROM A CLASS ACTION SETTLEMENT.¹

The District Court for Dakota County, Minnesota has authorized this Notice; it is not a solicitation from a lawyer.

| SUMMARY OF YOUR OPTIONS AND THE LEGAL EFFECT OF EACH OPTION | |
|---|---|
| DO NOTHING | If you don’t do anything, you will receive a payment from the Settlement Fund and/or debt forgiveness, so long as you do not opt out of or exclude yourself from the Settlement (described in the next box). |
| EXCLUDE YOURSELF FROM THE SETTLEMENT; RECEIVE NO PAYMENT BUT RELEASE NO CLAIMS | You can choose to exclude yourself from the Settlement or “opt out.” This means you choose not to participate in the Settlement. You will keep any individual claims you may have against Defendant, but you will not receive a payment and/or debt forgiveness. If you exclude yourself from the Settlement but want to seek recovery from Defendant, you will have to file a separate lawsuit or claim. |
| OBJECT TO THE SETTLEMENT | You can file an objection with the Court explaining why you believe the Court should reject the Settlement. If your objection is overruled by the Court, then you will receive a payment and/or debt forgiveness, and you will not be able to sue Defendant for the claims asserted in this litigation. If the Court agrees with your objection, then the Settlement may not be approved. |

These rights and options—*and the deadlines to exercise them*—along with the material terms of the Settlement are explained in this Notice.

¹ “APPSN Transactions” means debit card transactions that Authorize Positive, and Purportedly Settle Negative. “Retry Fees” means any fee or fees assessed to a holder of an Account for a second or third time a merchant attempted to be paid with the same check or performed a “Retry Payment” ACH transaction.

BASIC INFORMATION

1. What is this lawsuit about?

The lawsuit that is being settled is entitled *Peter Duggan et al. v. Wings Financial Credit Union* in the District Court for Dakota County, Case No. 19AV-CV-20-2163. The case is a “class action.” That means that the “Class Representatives” are acting on behalf of a group, which consists of those current and former customers of Defendant who were charged APPSN Fees or Retry Fees (defined in footnote 1, above) between April 2, 2018, and May 17, 2019 (for APPSN Fees) and between January 1, 2015, and May 1, 2019 (for Retry Fees). The people in this group are collectively called the “Settlement Class Members.”

The Class Representatives claim Defendant improperly charged APPSN Fees and Retry Fees. The Complaint alleges claims for breach of contract, breach of the implied covenant of good faith and fair dealing, and violation of Minnesota statute. The Class Representatives sought a refund of alleged improper fees charged to Settlement Class Member accounts and other relief. Defendant does not deny it charged these fees but contends it did so properly and in accordance with the terms of its agreements and applicable law. Defendant maintains that its practices were and now are proper and properly disclosed to its customers, and therefore denies that its practices give rise to claims for damages by the Class Representatives or any Settlement Class Member.

2. Why did I receive this Notice of this lawsuit?

You received this Notice because Defendant’s records indicate that you were charged one or more of the fees that are the subject of this action. The Court directed that this Notice be sent to all Settlement Class Members because each Settlement Class Member has a right to know about the proposed Settlement and the options available to him or her before the Court decides whether to approve the Settlement.

3. Why did the parties settle?

In any lawsuit, there are risks and potential benefits that come with a trial versus settling at an earlier stage. It is the Class Representatives’ and their lawyers’ job to identify when a proposed settlement offer is good enough that it justifies recommending settling the case instead of continuing to trial. In a class action, the Class Representatives’ lawyers, known as Class Counsel, make this recommendation to the Class Representatives. The Class Representatives have the duty to act in the best interests of the class as a whole and, in this case, it is their belief, as well as Class Counsels’ opinion, that this Settlement is in the best interest of all Settlement Class Members.

There is legal uncertainty about whether a judge or a jury will find that Defendant was contractually and otherwise legally obligated not to assess the fees that are being challenged in this case. And even if it was contractually wrong to assess these fees, there is uncertainty about whether the Class Representatives’ claims are subject to other defenses that might result in no or less recovery to Settlement Class Members. Even if the Class Representatives were to win at trial, there is no assurance that the Settlement Class Members would be awarded more than the current settlement amount and it may take years of litigation before any payments would be made. By settling, the Settlement Class Members will avoid these and other risks and the delays associated with continued litigation.

While Defendant disputes the allegations in the lawsuit and denies any liability or wrongdoing, it enters into the Settlement solely to avoid the expense, inconvenience, and distraction of further proceedings in the litigation.

WHO IS IN THE SETTLEMENT

4. How do I know if I am part of the Settlement?

If you received this Notice, then Defendant’s records indicate that you are a Settlement Class Member who is entitled to receive a payment or credit to your account.

YOUR OPTIONS

5. What options do I have with respect to the Settlement?

You have three options: (1) do nothing and you will receive a payment according to the terms of this Settlement; (2) exclude yourself from the Settlement (“opt out” of it); or (3) participate in the Settlement but object to it. Each of these options is described in a separate section below.

6. What are the critical deadlines?

There is no deadline to receive a payment. If you do nothing, then you will get a payment.

The deadline for sending a letter to exclude yourself from or opt out of the Settlement is **January 3, 2023**. The deadline to file an objection with the Court is also **January 3, 2023**.

7. How do I decide which option to choose?

If you do not like the Settlement and you believe that you could receive more money by pursuing your claims on your own (with or without an attorney that you could hire) and you are comfortable with the risk that you might lose your case or get less than you would in this Settlement, then you may want to consider opting out.

If you believe the Settlement is unreasonable, unfair, or inadequate and the Court should reject the Settlement, you can object to the settlement terms. The Court will decide if your objection is valid. If the Court agrees, then the Settlement will not be approved and no payments will be made to you or any other Settlement Class Member. If your objection (and any other objection) is overruled, and the Settlement is approved, then you will still get a payment.

If you want to participate in the Settlement, then you don’t have to do anything; you will receive a payment if the Settlement is approved by the Court.

8. What has to happen for the Settlement to be approved?

The Court has to decide that the Settlement is fair, reasonable, and adequate before it will approve it. The Court already has decided to provide preliminary approval of the Settlement, which is why you received this Notice. The Court will make a final decision regarding the Settlement at a “Fairness Hearing” or “Final Approval Hearing,” which is currently scheduled for **February 3, 2023, at 1:30 p.m.**

THE SETTLEMENT PAYMENT

9. How much is the Settlement?

Defendant has agreed to create a Settlement Fund of \$1,100,000.00. In addition, Defendant has agreed to forgive certain uncollected APPSN Fees or Retry Fees, as identified by the Parties based on review and analysis of Defendant’s reasonably accessible data and information, in a total amount of \$57,000.00.

As discussed separately below, attorneys’ fees, litigation costs, and the costs paid to a third-party Settlement Administrator to administer the settlement (including mailing and emailing this notice) will be paid out of the Settlement Fund. The balance of the Settlement Fund will be divided among all Settlement Class Members as outlined in the Settlement Agreement.

10. How much of the Settlement Fund will be used to pay for attorney fees and costs?

Class Counsel will request an attorney fee be awarded by the Court of up to one third of the Value of the Settlement. Class Counsel will also request that it be reimbursed for reasonable litigation costs incurred in prosecuting the case. The Court will decide the amount of the attorneys’ fees and costs that are reasonable.

11. How much of the Settlement Fund will be used to pay the Class Representatives a service award?

Class Counsel will request that the Class Representatives be paid service awards in the amount of \$7,500.00 each for their work in connection with this case. The service awards must be approved by the Court.

12. How much will my payment be?

The balance of the Settlement Fund after attorneys' fees and costs, the service award, and the Settlement Administrator's fees will be divided among all Settlement Class Members as outlined in the Settlement Agreement. Current customers of Defendant will receive a credit to their accounts for the amount they are entitled to receive. Former customers of Defendant shall receive a check from the Settlement Administrator.

13. Do I have to do anything if I want to participate in the Settlement?

No. If you received this Notice, then you will be entitled to receive a payment and/or debt forgiveness without having to make a claim (but if you choose to exclude yourself from the Settlement, or "opt out," then you will not receive a payment or debt forgiveness).

14. When will I receive my payment?

The Court will hold a Fairness Hearing on **February 3, 2023, at 1:30 p.m.** to consider whether the Settlement should be approved. If the Court approves the Settlement, then payments should be made or credits should be issued within about 40 to 60 days after the Settlement is approved. However, if someone objects to the Settlement, and the objection is sustained, then there is no settlement. Even if all objections are overruled and the Court approves the Settlement, an objector could appeal, and it might take months or even years to have the appeal resolved, which would delay any payment.

EXCLUDING YOURSELF FROM THE SETTLEMENT

15. How do I exclude myself from the Settlement?

If you do not want to receive a payment, or if you want to keep any right you may have to sue Defendant for the claims alleged in this lawsuit, then you must exclude yourself, or "opt out."

To opt out, you must send a letter to the Settlement Administrator that you want to be excluded. Your letter can simply say "I hereby elect to be excluded from the Settlement in the *Duggan et al. v. Wings Financial Credit Union* class action." Be sure to include your name, address, telephone number, email address, and the last four digits of your account number(s) or former account number(s). Your exclusion or opt out request must be postmarked by **January 3, 2023**, and sent to the following address:

Duggan et al. v. Wings Financial Credit Union
Attn: Settlement Administrator
P.O. Box 5358
Portland, OR 97208-5358

16. What happens if I opt out of the Settlement?

If you opt out of the Settlement, you will preserve and not give up any right you may have to sue Defendant for the claims alleged in this case. However, you will not be entitled to receive a payment or debt forgiveness from this Settlement.

17. If I exclude myself, can I obtain a payment?

No. If you exclude yourself, you will not be entitled to a payment.

OBJECTING TO THE SETTLEMENT

18. How do I notify the Court that I do not like the Settlement?

You can object to the Settlement or any part of it that you do not like if you do not exclude yourself, or opt out, from the Settlement. (Settlement Class Members who exclude themselves from the Settlement have no right to object to how other Settlement Class Members are treated.) To object, you must send a written document to the Settlement Administrator at the address below. Your objection should say that you are a Settlement Class Member, that you object to the Settlement, and the factual and legal reasons why you object, and whether you intend to appear at the hearing. In your objection, you must include your name, address, telephone number, email address (if applicable), and your signature.

All objections must be postmarked no later than **January 3, 2023**, and must be mailed to the Settlement Administrator as follows:

SETTLEMENT ADMINISTRATOR

Duggan et al. v. Wings Financial Credit Union
Attn: Settlement Administrator
P.O. Box 5358
Portland, OR 97208-5358

19. What is the difference between objecting and requesting exclusion from the Settlement?

Objecting is telling the Court that you do not believe the Settlement is fair, reasonable, and adequate for the Class, and asking the Court to reject it. You can object only if you do not opt out of the Settlement. If you object to the Settlement and do not opt out, then you are entitled to a payment if the Settlement is approved, but you will release claims you might have against Defendant. Excluding yourself or opting out is telling the Court that you do not want to be part of the Settlement, and do not want to receive a payment or release claims you might have against Defendant for the claims alleged in this lawsuit.

20. What happens if I object to the Settlement?

If the Court sustains your objection, or the objection of any other Settlement Class Member, then there is no settlement. If you object, but the Court overrules your objection and any other objection(s), then you will be part of the Settlement.

THE COURT'S FAIRNESS HEARING

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

The Court will hold a Final Approval or Fairness Hearing at Dakota County District Court, 1560 Highway 55, Hastings, Minnesota on **February 3, 2023, at 1:30 p.m.** 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 may also decide how much to award Class Counsel for attorneys' fees and expenses.

22. Do I have to come to the hearing?

No. You do not have to attend this hearing. Class Counsel will answer any questions the Court may have. You may attend if you desire to do so, at your own cost. The Court will consider any objection you have properly submitted regardless of whether you attend or not.

23. May I speak at the hearing?

If you have objected, you may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must include with your objection, described in Question 19, above, the statement, "I hereby give notice that I intend to appear at the Final Approval Hearing."

THE LAWYERS REPRESENTING YOU

24. Do I have a lawyer in this case?

The Court ordered that the lawyers and their law firms referred to in this notice as “Class Counsel” will represent you and the other Settlement Class Members.

25. Do I have to pay the lawyer for accomplishing this result?

No. Class Counsel will be paid directly from the Settlement Fund in an amount approved by the Court.

26. Who determines what the attorneys’ fees will be?

The Court will be asked to approve the amount of attorneys’ fees at the Fairness Hearing. Class Counsel will file an application for fees and costs and will specify the amount being sought as discussed above. You may review a copy of the fee application at the website established by the Settlement Administrator.

GETTING MORE INFORMATION

This Notice only summarizes the proposed settlement. More details are contained in the Settlement Agreement, which can be viewed/obtained online at WFCUSettlement.com.

For additional information about the settlement and/or to obtain copies of the Settlement Agreement, or to change your address for purposes of receiving a payment, you should contact the Settlement Administrator as follows:

Duggan et al. v. Wings Financial Credit Union
Attn: Settlement Administrator
P.O Box 5358
Portland, OR 97208-5358

If the Settlement Administrator does not answer any questions you have to your satisfaction, then you also may contact Class Counsel as follows:

Taras Kick
815 Moraga Drive
Los Angeles, CA 90049
310-395-2988

Jeffrey Kaliel
Kaliel Gold PLLC
1100 15th St. NW
4th Floor
Washington, D.C. 20005
202-350-4783

PLEASE DO NOT CONTACT THE COURT OR ANY REPRESENTATIVE OF DEFENDANT CONCERNING THIS NOTICE OR THE SETTLEMENT.