

Bernadette Dominique
v.
Desert 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 DESERT
FINANCIAL CREDIT UNION AND YOU WERE CHARGED AN
OVERDRAFT FEE BETWEEN JUNE 1, 2014 AND NOVEMBER 1, 2017
ON A NON-PIN DEBIT CARD TRANSACTION THAT AUTHORIZED
AGAINST A SUFFICIENT AVAILABLE BALANCE AND SETTLED
AGAINST AN INSUFFICIENT AVAILABLE BALANCE, AND THE
OVERDRAFT FEE WAS NOT REFUNDED TO YOU, THEN YOU MAY
BE ENTITLED TO A PAYMENT FROM A CLASS ACTION
SETTLEMENT**

The Superior Court for the State of Arizona for the County of Maricopa 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 have received this Notice, you will receive a payment from the Settlement Fund if you do not opt out.
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 your individual claims against Desert Financial Credit Union but you will not receive a payment. If you exclude yourself from the settlement but want to recover against Desert Financial Credit Union, you will have to file a separate lawsuit or claim.
OBJECT TO THE SETTLEMENT	If you do not opt out, you can file an objection with the Court explaining why you believe the Court should reject the settlement. If you object and the objection is overruled by the Court, then you will receive a payment and you will not be able to sue Desert Financial Credit Union for the claims asserted in this litigation. If the Court agrees with your objection, then the settlement may not be approved and the case will go forward.

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

BASIC INFORMATION

1. What is this lawsuit about?

The lawsuit that is being settled is entitled *Bernadette Dominique v. Desert Financial Credit Union* in the Superior Court of the State of Arizona for the County of Maricopa, Case No. CV2020-053959. The case is a putative “class action.” That means that the “Named Plaintiff,” Bernadette Dominique, is an individual seeking to act on behalf of members of Desert Financial Credit Union.

The Named Plaintiff claims Desert Financial Credit Union incorrectly charged overdraft fees between June 1, 2014 and November 1, 2017 on non-PIN debit card transactions that authorized against a sufficient available balance and settled against an insufficient available balance. Desert Financial Credit Union disputes these allegations and responds that its overdraft fees were charged as permitted by its terms and conditions and applicable law.

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

You received this Notice because Desert Financial Credit Union’s records indicate that you were charged one or more eligible overdraft fees and Desert Financial Credit Union has not already refunded those fees. The Court directed that this Notice be sent to all members of the proposed Settlement Class because they have a right to know about the proposed settlement and the options available to them before the Court decides whether to approve the settlement.

3. Why did the parties settle?

In any lawsuit, there are risks that come with proceeding to trial versus settling at an earlier stage. It is the Named Plaintiff’s 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, these lawyers, known as Class Counsel, make this recommendation to the Named Plaintiff. The Named Plaintiff has the duty to act in the best interests of the putative class as a whole and, in this case, it is her belief, as well as Class Counsel’s opinion, that this settlement is in the best interest of all members of the proposed Settlement Class for at least the following reasons:

There is legal uncertainty about whether a judge or a jury will find that Desert Financial Credit Union incorrectly charged overdraft fees between June 1, 2014 and November 1, 2017 on non-PIN debit card transactions that authorized against a sufficient available balance and settled against an insufficient available balance, and, even if it does, there is uncertainty about whether the claims are subject to other defenses that might result in no or less recovery to members of the proposed Settlement Class. Even if the Named Plaintiff were to win at trial, there is no assurance that members of the proposed Settlement Class would be awarded more than the current settlement amount, and it may take years of litigation before any payments would be made. By settling, members of the proposed Settlement Class will avoid these and other risks and the delays associated with continued litigation.

While Desert Financial Credit Union 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 Desert Financial Credit Union's records indicate that you are a member of the Settlement Class who is entitled to receive a payment or credit to your account under the terms of the settlement.

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?

The deadline for sending a letter to exclude yourself from, or opt out of, the settlement is July 14, 2023.

The deadline to file an objection with the Court is August 18, 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 do not opt out, and you believe the settlement is unreasonable, unfair, or inadequate and the Court should reject the settlement, then 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 member of the Settlement Class. 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, you need not do anything and you will receive a payment if you do not opt out.

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 September 7, 2023.

THE SETTLEMENT PAYMENT

9. How much is the settlement?

Desert Financial Credit Union has agreed to create a Settlement Fund of \$6,000,000. As discussed separately below, Plaintiff's attorneys' fees, Plaintiff's litigation costs, a Service Award to the Named Plaintiff, the costs paid to a third-party Claims Administrator to administer the settlement (including mailing and emailing this Notice), and up to \$40,000 in any expert fees and/or costs incurred by Desert Financial Credit Union in identifying members of the Settlement Class and performing the calculations necessary for determining the allocations of the Settlement Fund to those members, will be subtracted from the Settlement Fund. The balance of the Settlement Fund will be divided among all members of the Settlement Class based on the amount of eligible overdraft fees that each member paid.

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 not more than one-third (\$2,000,000) of the Settlement Fund, which will be subtracted from the Settlement Fund before the Fund is allocated to members of the Settlement Class. Class Counsel has also requested that it be reimbursed in an amount not to exceed \$50,000 in litigation costs incurred in prosecuting the case. The Court will decide the amount of the attorneys' fees and costs based on a number of factors, including the risk associated with bringing the case on a contingency basis, the amount of time spent on the case, the amount of costs incurred to prosecute the case, the quality of the work, and the outcome of the case.

11. How much of the Settlement Fund will be used to pay the Named Plaintiff a Service Award?

Class Counsel on behalf of the Named Plaintiff has requested that the Court award the Named Plaintiff up to \$20,000 for her role in acting as the Named Plaintiff and securing this settlement on behalf of the class. The Court will decide if a Service Award is appropriate and, if so, the amount of the award.

12. How much of the Settlement Fund will be used to pay the Class Administrator's expenses?

The Claims Administrator has agreed to cap its expenses at \$99,000.

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

No. If you received this Notice, as long as you do not opt out, a credit will be applied to your account if you are an existing customer, or a check will be mailed to you at the last known address Desert Financial Credit Union has for you if you are not an existing customer. If your address has changed, you should provide your current address to the Claims Administrator at the address set forth in Question 15, below. Excluding yourself from the settlement means you choose not to participate in the settlement. You will keep your individual claims against Desert Financial Credit Union, but you will not receive a payment. In that case, if you choose to seek recovery against Desert Financial Credit Union, then you will have to file a separate lawsuit or claim.

14. When will I receive my payment?

The Court will hold a Fairness Hearing (explained below in Questions 21-23) on September 7, 2023 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 Desert Financial Credit Union 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 Claims Administrator that you want to be excluded. Your letter can simply say “I hereby elect to be excluded from the settlement in the *Bernadette Dominique v. Desert Financial Credit Union* class action.” Be sure to include your name, last four digits of your account number, address, telephone number, and email address. Your exclusion or opt-out request must be postmarked by July 14, 2023 and sent to:

Dominique v. Desert Financial Credit Union
c/o Kroll Settlement Administration
PO Box 225391
New York, NY 10150-5391

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 of your rights to sue Desert Financial Credit Union for the claims alleged in this case. However, you will not be entitled to receive a payment 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. (Members of the Settlement Class who exclude themselves from the settlement have no right to object to how other members are treated.) To object, you must send a written document to the Claims Administrator at the address below. Your objection should say that you are a member of the Settlement Class, 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 post-marked no later than August 18, 2023, and must be mailed to the Claims Administrator as follows:

CLAIMS ADMINISTRATOR
Dominique v. Desert Financial Credit Union c/o Kroll Settlement Administration PO Box 225391 New York, NY 10150-5391

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 Settlement 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 Desert Financial Credit Union. 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 Desert Financial Credit Union 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 member of the Settlement Class, 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 on September 7, 2023, at the Superior Court Of The State Of Arizona For The County Of Maricopa. 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 and how much the Named Plaintiff should get as a Service Award for acting as the class representative.

22. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. You may attend if you desire to do so. If you have submitted an objection, then you may want to attend.

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 18, above, the statement, "I hereby give notice that I intend to appear at the Final Approval Hearing."

IF YOU DO NOTHING

24. What happens if I do nothing at all?

If you do nothing at all, and if the settlement is approved, then you will receive a payment that represents your share of the Settlement Fund net of attorneys' fees, Claims Administrator expenses, the Named Plaintiff's Service Award, and up to \$40,000 in expert fees and/or costs incurred by Desert Financial Credit Union in identifying members of the Settlement Class and performing the calculations necessary for determining the allocations of the Settlement Fund to those members. You will be considered a part of the Settlement Class, and you will give up claims against Desert Financial Credit Union for the conduct alleged in this lawsuit. You will not give up any other claims you might have against Desert Financial Credit Union that are not part of this lawsuit.

THE LAWYERS REPRESENTING YOU

25. 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", The Kick Law Firm, APC and Kaliel Gold LLP, will represent you and the other members of the Settlement Class.

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

No. Class Counsel will be paid directly from the Settlement Fund before the Settlement Fund is allocated to the members of the Settlement Class.

27. 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 the fee application at www.dfoverdraftfees.com or view a physical copy at the Office of the Clerk for the Superior Court Of The State Of Arizona For The County Of Maricopa.

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 www.dfoverdraftfees.com or at the Office of the Clerk Superior Court Of The State Of Arizona For The County Of Maricopa, by asking for the Court file containing the Motion For Preliminary Approval of Class Settlement (the settlement agreement is attached to the motion).

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 Claims Administrator as follows:

Dominique v. Desert Financial Credit Union
c/o Kroll Settlement Administration
PO Box 225391
New York, NY 10150-5391
1-833-630-9695
info@dfoverdraftfees.com

For more information you also can contact the Class Counsel as follows:

<p>Sophia Goren Gold Kaliel Gold LLP 950 Gilman St., Ste. 200 Berkeley, CA 94710 Telephone: 202-350-4783 sgold@kalielgold.com</p>	<p>Taras Kick The Kick Law Firm, APC 815 Moraga Drive Los Angeles, California 90049 Telephone: (310) 395-2988 Taras@kicklawfirm.com</p>
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PLEASE DO NOT CONTACT THE COURT OR ANY REPRESENTATIVE OF DESERT FINANCIAL CREDIT UNION CONCERNING THIS NOTICE OR THE SETTLEMENT