

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

NOTICE REGARDING CLASS ACTION SETTLEMENT

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

- A settlement has been reached in a class action lawsuit claiming that TD Bank, N.A. (“TD Bank”) breached its contract with accountholders and improperly assessed and collected fees when accountholders used an out of network ATM to conduct a balance inquiry. TD Bank maintains it did nothing wrong; however, it has agreed to settle the lawsuit to avoid the cost, delay, and uncertainty of litigation. The Court has not decided which side is right.
- A cash Settlement Fund of \$11.9 million dollars has been established to pay Settlement Class Member Payments and any attorneys’ fees, costs, expenses, and Service Awards ordered by the Court, as well as any Administrative Costs. Current and former TD Bank customers who incurred at least one Out of Network ATM Balance Inquiry Fee may be eligible for a Settlement Class Member Payment from the Settlement Fund.
- Your legal rights are affected whether you act or don’t act. Read this Notice carefully.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

Do Nothing and Receive a Payment or Account Credit	If you are entitled under the Settlement to a payment or account credit, you do not have to do anything to receive it. If the Court approves the Settlement and it becomes final and effective, and you remain in the Settlement Class (<i>i.e.</i> , you do nothing and do not otherwise exclude yourself from the Settlement), you will automatically receive a payment or account credit.
Exclude Yourself from the Settlement Deadline: May 26, 2023	Instead of doing nothing, you may ask to be excluded from the lawsuit. If you do so, you will receive no benefit from the Settlement, but you retain your right to sue on your own.
Object Deadline: May 26, 2023	You may object to the terms of the Settlement Agreement and have your objections heard at the July 19, 2023 Final Approval Hearing.

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments and account credits will be provided if the Court approves the Settlement and after any appeals are resolved. Please be patient.

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BASIC INFORMATION

1. Why is there a Notice?

A Court authorized this Notice because you have a right to know about the proposed Settlement of this class action lawsuit and about all your options before the Court decides whether to give Final Approval to the Settlement. This Notice explains the lawsuit, the Settlement, and your legal rights.

The U.S. District Court for the District of New Jersey is overseeing this case. The case is known as *Galgano d/b/a Shear Envy Hair Studio, et al. v. TD Bank, N.A.*, Case No. 1:20-cv-05623 (D.N.J.). The people who sued are called the Plaintiffs. The Defendant is TD Bank.

2. What is this lawsuit about?

The lawsuit claims that TD Bank breached its contract with accountholders and improperly assessed and collected Out of Network ATM Balance Inquiry Fees when accountholders used an out of network ATM to conduct a balance inquiry together with another transaction such as a cash withdrawal.

The Complaint in this action is posted on the Settlement Website, www.OutofNetworkATMFeeSettlement.com, and contains all of the allegations and claims asserted against TD Bank. TD Bank maintains it did nothing wrong but has agreed to settle the lawsuit to avoid the cost, delay, and uncertainty of litigation. The Court has not decided which side is right.

3. What is an Out of Network ATM Balance Inquiry Fee?

The phrase Out of Network ATM Balance Inquiry Fee (or “OON Balance Inquiry Fee”) refers to the fee TD Bank charged accountholders when using a non-TD Bank ATM to check an account balance in the same session that accountholders made a withdrawal or transfer. This Settlement does not relate to fees charged for transactions at TD ATMs.

4. Why is this a class action?

In a class action, one person or a group of people, called Class Representatives (in this case, two TD Bank customers who were assessed OON Balance Inquiry Fees), sue on behalf of people who have similar claims. All the people who have claims similar to the Class Representatives are members of the Settlement Class, except for those who exclude themselves from the class.

5. Why is there a settlement?

The Court has not decided in favor of either the Plaintiffs or TD Bank. Instead, both sides agreed to the Settlement. By agreeing to the Settlement, the Parties avoid the costs and uncertainty of a trial, and Settlement Class Members receive the benefits described in this Notice. The Class Representatives and their attorneys think the Settlement is best for everyone who is affected.

WHO IS IN THE SETTLEMENT?

If you received notice of the Settlement from a postcard or email addressed to you, then you are in the Settlement Class. If you did not receive a postcard or email notice, then the persons included in the Settlement Class are described below. If you believe you are in the Settlement Class, but for some reason did not receive a postcard or email, please contact the Settlement Administrator through this website or the number provided on this website.

6. Who is included in the Settlement?

With some exceptions explained below, you are a member of the Settlement Class if you are a current or former TD Bank customer who was charged an OON Balance Inquiry Fee during “the Class Period.” The Class Period means:

- (a) For Settlement Class Members whose accounts were opened in Connecticut, Massachusetts, Maine, New Jersey, New York, Rhode Island, and Vermont: the period from May 7, 2014 to December 31, 2019;
- (b) For Settlement Class Members whose accounts were opened in Virginia: the period from May 7, 2015 to December 31, 2019;
- (c) For Settlement Class Members whose accounts were opened in Pennsylvania: the period from May 7, 2016 to December 31, 2019;
- (d) For Settlement Class Members whose accounts were opened in the District of Columbia, Delaware, Maryland, North Carolina, New Hampshire, and South Carolina: the period from May 7, 2017 to December 31, 2019.

Excluded from the Settlement Class are (1) TD Bank, its parents, subsidiaries, affiliates, officers and directors; (2) all Settlement Class Members who exclude themselves from the Settlement; and (3) all judges assigned to this litigation and their immediate family members.

THE SETTLEMENT’S BENEFITS – WHAT YOU GET

7. What does the Settlement provide?

TD Bank has agreed to establish a cash Settlement Fund of \$11.9 million dollars, from which Settlement Class Members will receive payments. The minimum award will be \$2, with a possible additional amount for each Participating Settlement Class Member who incurred more than one OON Balance Inquiry Fee. The additional amount cannot be determined at this time; it will depend on the number of Participating Settlement Class Members and the amount of additional OON Balance Inquiry Fees each Participating Settlement Class Member incurred. Pursuant to the Court’s approval, the Settlement Fund will also be used to pay attorneys’ fees awarded to Class Counsel, reimbursement of Class Counsel’s litigation expenses and costs, Administrative Costs of the Settlement Administrator, and a Service Award of up to \$7,500 for each Class Representative.

Any Residual Funds that are not feasible and practical to distribute to individual Participating Settlement Class Members will be provided to one or more charitable organization (“*cy pres*” recipients). The parties will recommend an organization or organizations with their Motion for Final Approval.

8. How do I receive a payment?

If you are in the Settlement Class and are entitled to receive a payment, you do not need to do anything to receive a Settlement payment. If the Court approves the Settlement and it becomes final and effective, you will automatically be sent a payment or account credit.

Once the Court approves the Settlement, payment will be made by check or a credit/direct deposit. Current TD Bank accountholders will receive a credit to (or deposit in) their accounts. Participating Settlement Class Members without an active TD Bank deposit account will receive checks mailed to and made payable to the name and address on record with TD Bank and/or the address returned by the United States Postal Service’s National Change of Address database. Settlement Class Members may write to the Settlement Administrator to provide mailing address updates before the Final Approval Hearing.

9. What am I giving up to stay in the Settlement Class?

If you stay in the Settlement Class, all the decisions by the Court will bind you, and you give TD Bank a release. A release means you cannot sue, continue to sue, or be part of any other lawsuit against TD Bank about the issues in this case. Section XVI of the Settlement Agreement contains the release and describes the claims that you give up if you remain in the Settlement. The Settlement Agreement is available at www.OutOfNetworkATMFeeSettlement.com.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want benefits from the Settlement, and you want to keep the right to sue TD Bank on your own about the issues in this case, then you must take steps to get out of the Settlement. This is called excluding yourself—or it is sometimes referred to as “opting out” of the Settlement Class.

10. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must send a letter by mail that includes the following:

- Your name and TD Bank account number(s);
- A dated, written statement that you want to “opt out” or “be excluded” from the Settlement Class in *Galgano d/b/a Shear Envy Hair Studio, et al. v. TD Bank, N.A.*, Case No. 1:20-cv-05623 (D.N.J.) and understand that you will not receive a Settlement Class Member Payment from the Settlement; and
- Your personal signature.

You must mail your exclusion request, postmarked no later than **May 26, 2023**, to:

Settlement Administrator
ATM Balance Inquiry Fee Settlement Program
P.O. Box 6938
Portland, OR 97228-6938

If an account has more than one accountholder, then all accountholders on that account shall be deemed to have opted out of the Settlement with respect to that account if any accountholder opts out of the Settlement, and no accountholder shall be entitled to a Settlement Class Member Payment.

11. If I do not exclude myself, can I sue TD Bank for the same thing later?

No. Unless you exclude yourself, you give up the right to sue TD Bank for the claims that the Settlement resolves. You must exclude yourself in order to try to pursue your own lawsuit.

12. If I exclude myself from the Settlement, can I still receive a payment?

No. You will not receive a payment if you exclude yourself from the Settlement.

THE LAWYERS REPRESENTING YOU

13. Do I have a lawyer in this case?

The Court has appointed lawyers to represent you and others in the Settlement Class, including the law firms of Wilentz, Goldman & Spitzer, P.A., KalielGold PLLC, and The Kick Law Firm, P.C. Class Counsel will represent you and others in the Settlement Class. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

14. How will the lawyers be paid?

Class Counsel intends to request up to one third of the Settlement Fund for attorneys’ fees and their litigation expenses and costs incurred in connection with prosecuting this case. The fees and expenses awarded by the Court will be paid out of the Settlement Fund. The Court will determine the amount of fees and expenses to award.

Class Counsel will also request that a Service Award of up to \$7,500 for each Class Representative (totaling \$15,000) be paid from the Settlement Fund for their service to the Settlement Class. Any Service Award is subject to Court approval.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you do not agree with the Settlement or some part of it.

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

If you are a Settlement Class Member and have not requested to be excluded from the Settlement Class, you can object to any part of the Settlement; the Settlement as a whole; Class Counsel's requests for fees, costs and expenses; and/or Class Counsel's request for Service Awards for the Class Representatives. To object, you must submit your objection by First-Class Mail to the Clerk of the Court, Class Counsel, and TD Bank's counsel. Your objection must include the following:

- The name and case number of this case, which is *Galgano d/b/a Shear Envy Hair Studio, et al. v. TD Bank, N.A.*, Case No. 1:20-cv-05623 (D.N.J.);
- Your full name, address, and telephone number;
- All grounds for the objection, accompanied by citation to any relevant legal authority;
- The number of times you have objected to a class action settlement within the five years preceding the date that you file the objection, the caption of each case in which you have made such objection, and a copy of any orders or opinions related to or ruling upon the prior objections that were issued by the trial and appellate courts in each listed case;
- The identity of any attorney representing you;
- Any and all agreements that relate to the objection or the process of objecting—whether written or verbal—between you and any other person or entity;
- The number of times in which your attorney and/or your attorney's law firm have objected to a class action settlement within the five years preceding the date you file the objection, the caption of each case, and a copy of any orders related to or ruling upon attorney's or attorney's law firm's prior objections within the preceding five years;
- A list of all persons who will be called to testify at the Final Approval Hearing in support of the objection;
- A statement confirming whether you (or your attorney) intend to personally appear and/or testify at the Final Approval Hearing; and
- Your personal signature (an attorney's signature is not sufficient).

Your objection must be postmarked no later than **May 26, 2023**.

16. What is the difference between objecting and excluding?

Objecting is telling the Court that you do not like something about the Settlement. You can object to the Settlement only if you do not exclude yourself from the Settlement. Excluding yourself from the Settlement is telling the Court that you don't want to be part of the Settlement. If you exclude yourself from the Settlement, you have no basis to object to the Settlement because it no longer affects you.

THE COURT'S FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing to decide whether to approve the Settlement and the request for attorneys' fees, litigation expenses and costs, and Service Awards for the Class Representatives. You may attend and you may ask to speak, but you don't have to do so. If you retain your own counsel, they may appear on your behalf.

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

The Court will hold a Final Approval Hearing at **10:00 a.m. ET on July 19, 2023**, at the United States District Court for the District of New Jersey, located at Mitchell H. Cohen Building & U.S. Courthouse, 4th & Cooper Streets, Camden, NJ 08101. The hearing may be held remotely or may be moved to a different date or time without additional notice, so it is a good idea to check the Settlement Website at www.OutofNetworkATMFeeSettlement.com for updates. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court will also consider any request by Class Counsel for attorneys' fees and expenses and for the Service Awards for the Class Representatives. If there are objections, the Court will consider them at this time. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take.

18. Do I have to attend the hearing?

No. Class Counsel will answer any questions the Court may have. However, you may attend at your own expense. If you send an objection, you don't have to come to Court to talk about it. Provided you submitted your written objection on time, to the proper address, and it complies with the requirements set forth above, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

YOU ARE **NOT** REQUIRED TO ATTEND THIS HEARING TO BENEFIT FROM THE SETTLEMENT.

19. May I speak at the hearing?

If you do not exclude yourself from the Settlement Class, you may ask the Court for permission to speak at the Final Approval Hearing concerning any part of the proposed Settlement by asking to speak in your objection by following the instructions above in Section 15.

IF YOU DO NOTHING

20. What happens if I do nothing at all?

If you do nothing, you will still receive the benefits to which you are entitled, assuming you can be reached by class notice. Unless you exclude yourself, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against TD Bank relating to the issues in this case.

GETTING MORE INFORMATION

21. How do I get more information?

This Long-Form Notice summarizes the proposed Settlement. More details can be found in the Settlement Agreement. You can obtain a copy of the Settlement Agreement on this website. You may also write with questions to the Settlement Administrator, ATM Balance Inquiry Fee Settlement Program, P.O. Box 6938, Portland, OR 97228-6938, or call the toll-free number, 855-739-1490. Do not contact TD Bank or the Court for information.