

# NOTICE OF PENDING CLASS ACTION AND PROPOSED SETTLEMENT

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA  
*Lisa Carter, et al. v. The City National Bank and Trust Company of Lawton, Oklahoma*  
Case No. 5:21-cv-29 (PRW)

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

**IF YOU HAVE OR HAD A CHECKING ACCOUNT WITH THE CITY NATIONAL BANK AND TRUST COMPANY OF LAWTON, OKLAHOMA (“DEFENDANT” OR “CITY NATIONAL”) AND YOU WERE CHARGED AN OVERDRAFT OR NON-SUFFICIENT FUNDS (“NSF”) FEE BETWEEN JANUARY 14, 2016, AND SEPTEMBER 5, 2023, THEN YOU MAY BE ENTITLED TO A PAYMENT FROM A CLASS ACTION SETTLEMENT**

*The District Court for the Western District of Oklahoma has authorized this Notice; it is not a solicitation from a lawyer.*

YOUR LEGAL RIGHTS AND OPTIONS		DEADLINE / DATE
<b>MAKE A CLAIM</b>	<p>If you received a Claim Form with your Notice, you are a member of the Regulation E Settlement Class and are eligible to make a claim for up to potentially as many as ten (10) overdraft fees which were paid by you on one-time debit card or ATM transactions between January 14, 2020 and September 5, 2023, assuming there was no prior refund of the overdraft fee. The total number of such overdraft fees that you incurred is shown on the Claim Form included with your Notice.</p> <p>If you are eligible, please submit a claim before <b>November 24, 2023</b>, or you might not receive any funds for one-time debit card and ATM fees.</p> <p>If the amount of received claims does not exceed the amount allocated for these overdraft fees and you do not submit a claim, you may still receive a payment for these overdraft fees, but likely will receive more if you make a claim.</p> <p><i>If you did not receive a Claim Form with your Notice, then you are not a member of the Regulation E Settlement Class and have no eligible debit card or ATM fees of this type and therefore need not make a claim; however, you may still be entitled to payment for other overdraft or NSF fees which do not require a claim to be made.</i></p>	<b>November 24, 2023</b>

<p><b>DO NOTHING AND AUTOMATICALLY RECEIVE A PAYMENT</b></p>	<p>Even if you did not receive a Claim Form and are not eligible to submit a claim, if you have incurred more than one NSF fee or an NSF fee followed by an overdraft fee for the same transaction item in the period beginning January 14, 2016 through September 5, 2023, you may receive a payment from the Settlement Fund if you do not exclude yourself (“opt out”).</p> <p>Note: If you did receive a Claim Form and are eligible to submit a claim, you may receive more than if you do nothing.</p>	<p>N/A</p>
<p><b>EXCLUDE YOURSELF</b></p>	<p>You can choose to exclude yourself from the settlement or "opt out." This means you choose not to participate in the settlement, and you will keep your individual claims against City National, but you will not receive a payment. If you exclude yourself from the settlement but want to recover against City National, you will have to file a separate lawsuit or claim.</p>	<p>Postmarked no later than <b>October 25, 2023</b></p>
<p><b>OBJECT TO THE SETTLEMENT</b></p>	<p>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 you will not be able to sue City National 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. If you opt out, then you cannot file an objection.</p>	<p>Postmarked no later than <b>November 19, 2023</b></p>

These rights and options – *and the deadlines to exercise them* – along with the material terms of the settlement are explained in this Notice. More information about the proposed settlement, including the Settlement Agreement, can be found at the website [www.CNBOverdraftSettlement.com](http://www.CNBOverdraftSettlement.com).

**BASIC INFORMATION**

**1. WHAT IS THIS LAWSUIT ABOUT?**

The lawsuit that is being settled is entitled *Lisa Carter, et al. v. The City National Bank and Trust Company of Lawton, Oklahoma* in the United States District Court for the Western District of Oklahoma, Case No. 5:21-cv-29 (PRW). The case is a “class action.” That means that the "Named Plaintiff," Lisa Carter, is an individual who is acting on behalf of two groups. The first is all customers of The City National Bank and Trust Company of Lawton, Oklahoma (“City National”) who have or had accounts with City National who were assessed an overdraft fee on a one-time debit card or ATM transaction between January 14, 2020 and September 5, 2023. The second group is all customers of City National who have or have had accounts with City National who incurred more than one NSF fee or an NSF fee followed by an overdraft fee for the same transaction item between January 14, 2016 and September 5, 2023. The persons in these groups are collectively called the "Class Members."

The Named Plaintiff claims City National charged customers overdraft fees on one-time debit card and ATM transactions even though it did not properly opt them into its overdraft program for debit card and ATM transactions as required by Regulation E of the Electronic Fund Transfer Act. Named Plaintiff also alleges City National improperly charged repeated fees (either NSF fees or an NSF fee followed by an overdraft fee) on a single transaction item even though City National’s contract with its customers states it will only charge a single fee per transaction item. The Complaint alleges claims for breach of contract, including the covenant of good faith and fair dealing, unjust enrichment/restitution, money had and received, and violations of Regulation E. The Named Plaintiff is seeking a refund of alleged improper overdraft and NSF fees charged to Class Member accounts. City National does not deny it charged overdraft and NSF fees but contends it did so properly and in accordance with the terms of its agreements and applicable law. City National 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 Named Plaintiff or any Class Member.

## 2. WHY DID I RECEIVE THIS NOTICE OF THIS LAWSUIT?

You received this Notice via email or mail because City National's records indicate that you are a Class Member because you were charged with one or more overdraft and/or NSF fees that are the subject of the claims alleged in this case. The Court directed that this Notice be sent to all Class Members because each 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 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 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 Class Members for at least the following reasons:

There is legal uncertainty about whether a judge or a jury will find that City National improperly opted-in customers to its Regulation E overdraft program such that it was not entitled to charge customers overdraft fees on one-time debit card and ATM transactions. The same is true regarding whether City National was contractually and otherwise legally obligated not to assess more than one fee on a single transaction item. Additionally, there is uncertainty about whether the Named Plaintiff's claims are subject to other defenses that might result in no or less recovery to Class Members. Even if the Named Plaintiff were to win at trial, there is no assurance that the 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 Class Members will avoid these and other risks and the delays associated with continued litigation. While City National 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 notice via email or mail, then City National's records indicate that you are a 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 four options:

1. **Make a Claim:** If you received a Claim Form with your Notice, you are a member of the Regulation E Settlement Class and are eligible to make a claim for up to potentially as many as ten (10) overdraft fees which were paid by you on one-time debit card or ATM transactions between January 14, 2020 and September 5, 2023, assuming there was no prior refund of the overdraft fee. If you are eligible, please submit a claim before **November 24, 2023**, or you might not receive any funds for one-time debit card and ATM fees.
2. **Do Nothing and Automatically Receive a Payment:** Even if you did not receive a Claim Form and are not eligible to submit a claim, if you have incurred more than one NSF fee or an NSF fee followed by an overdraft fee for the same transaction item in the period beginning January 14, 2016 through September 5, 2023, you may receive a payment from the Settlement Fund if you do not exclude yourself ("opt out"). Note: If you did receive a Claim Form and are eligible to submit a claim, you may receive more by submitting the Claim Form than if you do nothing.

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3. **Exclude Yourself:** You can choose to exclude yourself from the settlement or "opt out." This means you choose not to participate in the settlement, and you will keep your individual claims against City National, but you will not receive a payment. If you exclude yourself from the settlement but want to recover against City National, you will have to file a separate lawsuit or claim.
4. **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 you will not be able to sue City National 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. If you opt out, then you cannot file an objection.

Each of these options is described in a separate section below.

## 6. WHAT ARE THE CRITICAL DEADLINES?

The deadline to submit a Claim Form is **November 24, 2023**. The online Submit a Claim module will be closed after the deadline. Any paper Claim Form submissions must be **postmarked on or before November 24, 2023**.

If you do nothing, so long as you do not exclude yourself, a payment will be made to you, either by crediting your account if you still maintain an account with City National or by mailing a check to you at the last address on file with City National (or any other address you provide).

The deadline to exclude yourself from the Settlement is **October 25, 2023**. All requests for exclusion must be postmarked on or before **October 25, 2023**.

The deadline to file an objection with the Court is **November 19, 2023**. All written objections must be postmarked on or before **November 19, 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 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, and you received a Claim Form with your Notice via email or mail, then you should submit a claim as this might mean more money to you than if you do not make a claim. If you did not receive a Claim Form with your Notice, then City National's records indicate you were not assessed the type of overdraft fees for one-time debit card payments or ATM withdrawals that are reimbursable under the claims portion of the Settlement. In that case, you need not do anything and you will still receive a payment for other overdraft and/or NSF fees assessed 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 approves it. The Court already has decided to provide preliminary approval of the settlement, which is why Notices were sent to Class Members. The Court will make a final decision regarding the Settlement at the Final Approval/Fairness Hearing on a date to be determined (please check the Settlement Website for the most up-to-date information).

## THE SETTLEMENT PAYMENT

### 9. HOW MUCH IS THE SETTLEMENT?

City National has agreed to create a Settlement Fund of \$1,500,000.00. In addition, City National has agreed to change certain overdraft practices and disclosures. Together these constitute the Value of the Settlement. As discussed separately below, attorneys' fees, litigation costs, a Service Award to the Named Plaintiff, and the costs paid to a third-party Claims Administrator to administer the settlement (including mailing and emailing the Notice) will be paid out of the Settlement Fund. The balance of the Settlement Fund will be divided among all Class Members based on the amount of eligible overdraft and NSF fees they paid. The formula for distributing the settlement is described in the Settlement Agreement.

### 10. HOW MUCH OF THE SETTLEMENT FUND WILL BE USED TO PAY FOR ATTORNEYS' FEES AND COSTS?

Class Counsel will request attorneys' fees be awarded by the Court of not more than one-third of the Value of the Settlement. Class Counsel has also requested that it be reimbursed approximately \$55,000.00 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 will request that the Court award her up to \$10,000.00 for her role in 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 \$107,000.00.

### 13. HOW MUCH WILL MY PAYMENT BE?

The balance of the Settlement Fund will be divided among all Class Members based on claims made or on a *pro rata* basis according to an allocation set out in the Settlement Agreement. Current City National customers will receive a credit to their accounts for the amount they are entitled to receive. Former customers shall receive a check from the Claims Administrator. If a former customer with a closed or charged-off account owes City National money related to that account, any payment which such customer is due from the Settlement Fund will be reduced by the amount owed to City National.

### 14. DO I HAVE TO DO ANYTHING IF I WANT TO PARTICIPATE IN THE SETTLEMENT?

No. But if you received a Claim Form with your Notice via email or mail, and you submit a claim by **November 24, 2023**, you may receive a greater payment than if you do not make a claim. If you did not receive a Claim Form with your Notice via email or mail, then you will still be entitled to receive a payment without having to make a claim. Any amount you are entitled to under the terms of the settlement will be distributed to you unless you choose to exclude yourself from the settlement, or "opt out." Excluding yourself from the settlement means you choose not to participate in the settlement. You will keep your individual claims against City National, but you will not receive a payment. In that case, if you choose to seek recovery against City National, then you will have to file your own separate lawsuit or claim.

## 15. WHEN WILL I RECEIVE MY PAYMENT?

The Court will hold a Final Approval/Fairness Hearing on a date to be determined (please check the Settlement Website for the most up-to-date information) 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

### 16. 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 City National 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 stating that you want to be excluded. Your letter should include:

1. The statement, “I hereby elect to be excluded from the settlement in the Lisa Carter v. City National class action.”;
2. The last four digits of your current and/or former City National account;
3. Your full name;
4. Your mailing address;
5. Your telephone number;
6. Your email address; and,
7. Your signature.

All opt outs must be postmarked no later than **October 25, 2023**, and sent to:

*CNB Overdraft Settlement*  
Claims Administrator  
ATTN: OPT OUT  
P.O. Box 25188  
Santa Ana, CA 92799

### 17. 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 City National for the claims alleged in this case. However, you will not be entitled to receive a payment from this Settlement.

### 18. 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

### 19. 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 from the Settlement. (Class Members who exclude themselves from the settlement have no right to object to how other Class Members are treated.) To object, you must send a written document to the Claims Administrator at the address below. Your letter should include:

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1. A statement saying that you are a Class Member and that you object to the settlement;
2. The factual and legal reasons why you object;
3. Whether you intend to appear at the Final Approval/Fairness Hearing;
4. Your full name;
5. Your mailing address;
6. Your telephone number;
7. Your email address; and,
8. Your signature.

If you have an attorney who will appear on your behalf, please indicate that person's name and contact information.

All objections must be postmarked no later than **November 19, 2023**, and sent to:

*CNB Overdraft Settlement*  
Claims Administrator  
ATTN: OBJECTION  
P.O. Box 25188  
Santa Ana, CA 92799

## **20. 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 City National related to this lawsuit.

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 City National for the claims alleged in this lawsuit.

## **21. WHAT HAPPENS IF I OBJECT TO THE SETTLEMENT?**

If the Court sustains your objection, or the objection of any other 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**

## **22. WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?**

The Court will hold a Final Approval/Fairness Hearing at the District Court for the Western District of Oklahoma, William J. Holloway Jr. United States Courthouse located at 200 NW 4th Street, Oklahoma City, Oklahoma 73102 on a date to be determined (please check the Settlement Website for the most up-to-date information). 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.

### **23. 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 or your attorney may want to attend.

### **24. MAY I SPEAK AT THE HEARING?**

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

## **SUBMIT A CLAIM**

### **25. HOW DO I MAKE A CLAIM IF I RECEIVED A CLAIM FORM?**

If you received a Claim Form with your Notice via email or mail, then you should use it to make a claim. You may submit an electronic version of the Claim Form by visiting the website [www.CNBOverdraftSettlement.com](http://www.CNBOverdraftSettlement.com) OR you can complete the paper version of the Claim Form and send it, postmarked no later than **November 24, 2023**, to:

*CNB Overdraft Settlement*  
Claims Administrator  
ATTN: CLAIM FORM  
P.O. Box 25188  
Santa Ana, CA 92799

## **IF YOU DO NOTHING**

### **26. HOW DO I MAKE A CLAIM IF I RECEIVED A CLAIM FORM?**

If you do nothing at all, and if the Settlement is approved, then you may receive a payment that represents your share of the Settlement Fund net of attorneys' fees and costs, Claims Administrator expenses, and the Named Plaintiff's Service Award. You will be considered a part of the class, and you will give up claims against City National for the conduct alleged in this lawsuit. You will not give up any other claims you might have against City National that are not part of this lawsuit.

## **THE LAWYERS REPRESENTING YOU**

### **27. DO I HAVE A LAWYER IN THIS CASE?**

The Court ordered that Richard D. McCune and Emily J. Kirk of the McCune Law Group, APC and Barrett T. Bowers of The Bowers Law Firm, along with their law firms (referred to in the notice as "Class Counsel"), will represent you and the other Class Members.

### **28. DO I HAVE TO PAY THE LAWYERS FOR ACCOMPLISHING THIS RESULT?**

No. Class Counsel will be paid directly from the Settlement Fund.



## 29. WHO DETERMINES WHAT THE ATTORNEYS' FEES WILL BE?

The Court will be asked to approve the amount of attorneys' fees at the Final Approval/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 on the Important Documents page of this website, once available.

## GETTING MORE INFORMATION

This Notice only summarizes the proposed settlement. More details are contained in the Settlement Agreement, which can be viewed on the Settlement Website, [www.CNBOverdraftSettlement.com](http://www.CNBOverdraftSettlement.com), or at the Office of the Clerk of the United States District Court for the Western District of Oklahoma, William J. Holloway Jr. United States Courthouse, 200 NW 4th Street, Oklahoma City, Oklahoma 73102, 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:

*CNB Overdraft Settlement*  
Claims Administrator  
P.O. Box 25188  
Santa Ana, CA 92799

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

Richard D. McCune  
Emily J. Kirk  
McCune Law Group, APC  
3281 E. Guasti Road, Ste. 100  
Ontario, CA 91761  
Telephone: 909-557-1250  
rdm@mccunewright.com  
ejk@mccunewright.com

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