

NOTICE OF PENDING CLASS ACTION AND PROPOSED SETTLEMENT

IF YOU WERE CHARGED CERTAIN OVERDRAFT FEES OR NON-SUFFICIENT FUNDS FEES ON A GATE CITY BANK CHECKING ACCOUNT BETWEEN NOVEMBER 20, 2013, AND NOVEMBER 30, 2021, THEN YOU MAY BE ENTITLED TO A PAYMENT OR CREDIT FROM A CLASS ACTION SETTLEMENT.

This is not a solicitation from a lawyer. The East Central District Court, Cass County, State of North Dakota has authorized this Notice.

A Settlement has been reached in a class action lawsuit claiming that Gate City Bank (“Gate City”) breached its contract with Account Holders and improperly assessed and collected Overdraft Fees and Non-Sufficient Fees on certain transactions. Gate City 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 \$5.5 million has been established to pay Settlement Class Member Payments and any attorneys’ fees and costs and Service Awards ordered by the Court, as well as any Settlement Administration Costs. Current Account Holders who have and Former Account Holders who had a Gate City checking account(s) 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 OPTIONS AND THE LEGAL EFFECT OF EACH OPTION	
DO NOTHING AND RECEIVE A PAYMENT OR ACCOUNT CREDIT	If you don’t do anything, you will receive a payment or account credit from the Settlement Fund so long as you do not opt out of, or exclude yourself from, the Settlement (described in the next box).
OPT OUT 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 Gate City, but you will not receive a payment or credit for APPSN Fees and/or Multiple Fees. If you opt out of the Settlement but want to recover against Gate City, 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 may receive a payment and you will not be able to sue Gate City for the claims asserted in this Action. 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.

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, if filed, are resolved. Please be patient.

BASIC INFORMATION

1. What is this lawsuit about?

The lawsuit that is being settled is entitled *Mary Lou Fallis et al. v. Gate City Bank*. It is pending in the East Central District Court, Cass County, State of North Dakota, Case No. 09-2019-CV-04007. The case is a “class action.” That means that the “Class Representatives,” Mary Lou Fallis and Kyla Delorme, are individuals who are acting on behalf of current and former Gate City Account Holders who were assessed certain Overdraft Fees and Non-Sufficient Funds Fees between November 20, 2013, and November 30, 2021. The Class Representatives have asserted claims for breach of the account agreement and violations of the North Dakota Consumer Protection Law.

The Complaint in this lawsuit is posted on the Settlement Website and contains all of the allegations and claims asserted against Gate City. Gate City maintains that 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.

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

You received this Notice because Gate City's records indicate that you were charged one or more Overdraft Fees or Non-Sufficient Funds Fees that are the subject of this Action. You may be a member of the APPSN Fee Class or Multiple Fees Class, or both. The Court directed that notice be sent to all APPSN Fee Class and Multiple Fees Class members because each such 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 classes as a whole and, in this case, it is their belief, as well as Class Counsel's opinion, that this Settlement is in the best interest of all APPSN Fee Class and Multiple Fees Class members.

There is legal uncertainty about whether a judge or a jury will find that Gate City was contractually and otherwise legally obligated not to assess the fees at issue. 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 APPSN Fee Class and Multiple Fees Class members. Even if the Class Representatives were to win at trial, there is no assurance that the APPSN Fee Class and Multiple Fees 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 APPSN Fee Class and Multiple Fees Class members will avoid these and other risks and the delays associated with continued litigation.

Gate City disputes the allegations in the lawsuit and denies any liability or wrongdoing, and it enters into the Settlement solely to avoid the cost, delay, and uncertainty 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 Gate City's records indicate that you may be a member of the APPSN Fee Class and/or the Multiple Fees Class and entitled to receive a payment or credit to your Account. You may be a member of each class.

You are a member of the APPSN Fee Class if you are a current or former Gate City Account Holder from North Dakota who was assessed an Overdraft Fee(s) on a Debit Card transaction that was authorized into a positive available balance but settled against a negative available balance during the Class Period.

You are a member of the Multiple Fee Class if you are a current or former Gate City Account Holder from North Dakota who was assessed a Non-Sufficient Funds Fee(s) and/or Overdraft Fee(s) on an Automated Clearing House (ACH) and/or check transaction that was resubmitted for payment by a merchant after being returned by Gate City for insufficient funds during the Class Period.

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 or account credit according to the terms of this Settlement; (2) opt out of the Settlement; or (3) participate in the Settlement, but object to it. Each of these options is described in a separate section below. In addition, you may enter an appearance by hiring your own counsel.

6. What are the critical deadlines?

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

The deadline for sending a letter to opt out of the Settlement is **August 10, 2022**.

The deadline to file an objection with the Court is also **August 10, 2022**.

7. 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 granted Preliminary Approval of the Settlement, which is why you received a Notice. The Court will make a final decision regarding the Settlement at the Final Approval Hearing, which is currently scheduled for **September 9, 2022**.

THE SETTLEMENT PAYMENT

8. How much is the Settlement?

Gate City has agreed to create a Settlement Fund of \$5,500,000.00, which consists of \$4,840,000.00 for the APPSN Fee Class and \$660,000.00 for the Multiple Fee Class.

As discussed separately below, attorneys' fees, litigation costs, the costs paid to a third-party Settlement Administrator to administer the Settlement (including mailing and emailing Notice), and Service Awards to the Class Representatives will be allocated between and paid out of the Settlement Fund for both the APPSN Fee Class and Multiple Fees Class. Thereafter, the APPSN Fee Net Settlement Fund and Multiple Fees Net Settlement Fund will be divided among all members of each of those classes entitled to Settlement Class Member Payments based on formulas described in the Settlement and stated in response to Question 12 below.

9. How much of the Settlement Fund will be used to pay for attorneys' fees and costs?

Class Counsel will request the Court to approve attorneys' fees of not more than \$1,833,333.33 or 33.33% of the Settlement Fund, and will request that it be reimbursed for litigation costs incurred in filing and litigating the Action. 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.

10. 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 a Service Award in the amount of \$5,000.00 each for their filing and pursuit of the Action. The Service Awards must be approved by the Court.

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

The Settlement Administrator estimates its expenses will be approximately \$100,000.00.

12. How much will my payment be?

The balance of the Settlement Fund after attorneys' fees and costs, the Service Awards, and the Settlement Administration Costs will be divided among all Settlement Class Members entitled to Settlement Class Member Payments following the division for the two classes and thereafter in accordance with the formulas outlined in the Settlement and summarized below:

- I. The APPSN Fee Net Settlement Fund shall be paid *pro rata* to the members of the APPSN Fee Class using the following calculation:
 - The dollar amount of the APPSN Fee Net Settlement Fund divided by the total number of APPSN Fees paid by all members of the APPSN Fee Class, which yields a per-fee amount;
 - Multiply the per-fee amount by the total number of APPSN Fees charged to and paid by each member of the APPSN Fee Class.
 - This results in a APPSN Fee Class Settlement Class Member Payment.
- II. The Multiple Fees Net Settlement Fund shall be paid *pro rata* to the members of the Multiple Fees Class using the following calculation:
 - The dollar amount of the Multiple Fees Net Settlement Fund divided by the total number of Multiple Fees paid by all members of the Multiple Fees Class, which yields a per-fee amount;

- Multiply the per-fee amount by the total number of Multiple Fees charged to and paid by each member of the Multiple Fees Class.
- This results in a Multiple Fees Class Settlement Class Member Payment.

III. The total of the APPSN Fee Settlement Class Member Payment and/or the Multiple Fees Class Settlement Class Member Payment due to each Settlement Class Member is the total Settlement Class Member Payment.

Current Account Holders at the time the Settlement is effective and who are entitled to a Settlement Class Member Payment will receive a credit to their Accounts for the amount they are entitled to receive. Former Account Holders at the time the Settlement is effective and who are entitled to receive a Settlement Class Member Payment shall receive a check from the Settlement Administrator.

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

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

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

No. If you are a Settlement Class member, then you may be entitled to receive a payment or credit for APPSN Fees and/or Multiple Fees without having to make a claim, unless you choose to opt out of the Settlement.

15. When will I receive my payment or account credit?

The Court will hold a Final Approval Hearing on September 9, 2022, at 10:00 a.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 60 days of the Effective Date. 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 opt out of the Settlement?

If you do not want to receive a payment or credit, or if you want to keep any right you may have to sue Gate City for the claims alleged in this lawsuit, then you must opt out of the Settlement.

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 *Mary Lou Fallis et al. v. Gate City Bank* class action.” Be sure to include your name, the last four digits of your account number(s) or former account number(s), address, telephone number, and email address. Your exclusion or opt-out request must be postmarked by **August 10, 2022**, and sent to the following address:

Mary Lou Fallis, et al. v. Gate City Bank Settlement Administrator
P.O. Box 5820
Portland, OR 97228-5820

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 Gate City for the claims alleged in this case. However, you will not be entitled to receive a payment or credit from the Settlement.

In the event an account has multiple Account Holders and one such individual opts out of the Settlement, all of the Account Holders will be deemed to have opted out of the Settlement.

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 by mail or private courier (e.g., Federal Express) to the Clerk of Court at the address below. Your objection must include the following information:

- a. the name of the Action;
- b. the objector’s full name, address, and telephone number;
- c. an explanation of the basis upon which the objector claims to be a Settlement Class Member;
- d. all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector’s counsel;
- e. the number of times in which the objector has objected to a class action settlement within the five years preceding the date that the objector files the objection, the caption of each case in which the objector has made such objection, and a copy of any orders related to or ruling upon the objector’s prior objections that were issued by the trial and appellate courts in each listed case;
- f. the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement or fee application;
- g. the number of times in which the objector’s counsel and/or counsel’s law firm have objected to a class action settlement within the 5 years preceding the date of the filed objection, the caption of each case in which counsel or the firm has made such objection, and a copy of any orders related to or ruling upon counsel’s or the counsel’s law firm’s prior objections that were issued by the trial and appellate courts in each listed case in which the objector’s counsel and/or counsel’s law firm have objected to a class action settlement within the preceding 5 years;
- h. any and all agreements that relate to the objection or the process of objecting—whether written or oral—between objector or objector’s counsel and any other person or entity;
- i. the identity of all counsel, if any, representing the objector who will appear at the Final Approval Hearing;
- j. a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection;
- k. a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and
- l. the objector’s signature (an attorney’s signature is not sufficient).

All objections must be postmarked no later than **August 10, 2022**, and must be mailed to the Clerk of the Court, Class Counsel, Gate City’s counsel, and the Settlement Administrator as follows:

Clerk of Court	Settlement Administrator	Class Counsel	Gate City’s Counsel
Clerk of District Court - East Central Judicial District 211 9 th Street South Fargo, ND 58103	Gate City Bank Settlement Administrator P.O. Box 5820 Portland, OR 97728-5820	Jeffrey Ostrow Jonathan M. Streisfeld KOPELOWITZ OSTROW P.A. One West Las Olas Boulevard Suite 500 Fort Lauderdale, FL 33301 Jeffrey Kaliel KALIEL GOLD PLLC 1100 15th St. NW 4th Floor Washington, D.C. 20005	James McGuire BUCKLEY LLP 150 Spear Street Suite 800 San Francisco, CA 94105

19. What is the difference between objecting and requesting to opt out of the Settlement?

Objecting is telling the Court that you do not believe the Settlement is fair, reasonable, and adequate for the APPSN Fee Class and/or the Multiple Fees 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 or credit from the APPSN Fee Net Settlement Fund and/or Multiple Fees Net Settlement Fund, or both, if the Settlement is approved, but you will release claims you might have against Gate City. 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 credit for APPSN Fees and/or Multiple Fees, or both, or release claims you might have against Gate City 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 APPSN Fee Class and/or the Multiple Fees Class, then there may be 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 FINAL APPROVAL 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 **10:00 a.m. on September 9, 2022**, at the East Central Judicial Circuit Court House, Cass County, which is located at 211 9th Street South, Fargo, North Dakota 58103, unless otherwise noticed by the Court. 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 litigation costs and the amount of the Service Awards to the Class Representatives. The hearing may be virtual, in which case the instructions to participate shall be posted on the website at GateCityFeeLitigation.com.

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.”

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 members of the APPSN Fee Class and/or Multiple Fees Class.

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

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

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 attorneys' fees and costs, at the time they file the motion for Final Approval, 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, GateCityFeeLitigation.com, or by requesting the court record from the Clerk of the District Court for the East Central Judicial District at <https://www.ndcourts.gov/public-access>.

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 the Settlement Website, GateCityFeeLitigation.com; in person at the Office of the Clerk of the District Court for the East Central Judicial District, which is located at 211 9th Street South, Fargo, North Dakota 58103; by contacting the Settlement Administrator (details below) and requesting a copy; or by requesting the court record from the Clerk of the District Court for the East Central Judicial District at www.ndcourts.gov/public-access.

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

Mary Lou Fallis, et al. v. Gate City Bank Settlement Administrator
P.O. Box 5820
Portland, OR 97228-5820

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

<p>Jeffrey Ostrow Jonathan M. Streisfeld KOPELOWITZ OSTROW P.A. One West Las Olas Boulevard Suite 500 Fort Lauderdale, FL 33301 954-525-4100 954-525-4300 ostrow@kolawyers.com streisfeld@kolawyers.com</p>	<p>Jeffrey Kaliel KALIEL GOLD PLLC 1100 15th St. NW 4th Floor Washington, D.C. 20005 202-350-4783 jkaliel@kalielpllc.com</p>
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PLEASE DO NOT CONTACT THE COURT OR ANY REPRESENTATIVE OF GATE CITY CONCERNING THIS NOTICE OR THE SETTLEMENT.