



United States District Court for Eastern District of Virginia

Hernandez v. Dyck-O'Neal, Inc.

Case No. 1:23-cv-1029-AJT-IDD

Class Action Settlement Notice

Authorized by the U.S. District Court

A proposed class action settlement may affect your rights.

You are not being sued.

This notice explains the Settlement, the Settlement Class, and your legal rights and options.

Please read the entire notice carefully.

You should:

1. Read this notice.
2. If you do not want to remain in the Class, submit an opt-out request by Tuesday, June 18, 2024.

Important things to know:

- If you remain in the Settlement Class and the Court approves the Settlement, you will receive a monetary payment.
- If you take no action, you will still be bound the Settlement and its releases.
- You can learn more at: www.hernandezfdcpasettlement.com.

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Questions? Please visit www.hernandezfdcpasettlement.com or call (877) 312-9253 for more information.
Para una notificacion en Espanol, llamar (877) 312-9253 o visitar nuestro sitio web.

About This Notice

Why did I get a notice?

If you are receiving this Notice, you have been identified as a potential member of the Settlement Class in this lawsuit. Specifically, Defendant’s records indicate that you have a mortgage loan owned by Defendant on which it has attempted to collect or collected interest and late fees for periods in which you were not sent periodic statements regarding the loan. As a Settlement Class Member, you are eligible to receive a payment as part of this class action Settlement, as well as the additional debt relief described below.

This Notice describes your rights. Please review it carefully.

What is a class action lawsuit?

A class action is a lawsuit in which one or more people sue on behalf of a larger group, called the Class.

Your Legal Rights & Options

What do I do next?

DO NOTHING	If you do nothing, you will receive a settlement payment and the other relief described in this Notice and you will be bound by the Court’s decisions regarding the Settlement. You will not be able to pursue any potential claims against the Defendant that have been released as part of the Settlement. Review the full release at www.hernandezfdcpasettlement.com .
EXCLUDE YOURSELF FROM THE SETTLEMENT	You can opt out of the Settlement if you want to maintain any legal rights you may have against Defendant. But if you opt out, you will not receive a settlement payment or other relief provided under the Settlement if the Court grants final approval. To opt out from the Settlement, you must send a written request addressed to the Settlement Administrator and state that you wish to be excluded from the Settlement and include the information discussed in more detail in this Notice. The opt-out deadline is Tuesday, June 18, 2024.
OBJECT TO THE SETTLEMENT	You have the right to write to the Court to object to the Settlement if you believe it is unfair. You would remain a part of the Class and be bound by the Court’s decisions regarding the Settlement. The objection deadline is Tuesday, June 18, 2024.

Read on to understand the specifics of the Settlement and what each choice would mean for you. The Court still has to decide whether to grant final approval of the Settlement. Payments will be made if the Court approves the Settlement and after any appeals are resolved.

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What are the most important dates?

The Court has scheduled a final approval hearing for Wednesday, August 28, 2024, at 10:00 a.m. If there are no appeals, checks will be sent approximately 35 days after the Court finally approves the Settlement. Your deadline to opt out of the Settlement, or to object to the Settlement, is Tuesday, June 18, 2024.

Learning About the Lawsuit and the Settlement

What is this Lawsuit About?

Plaintiff Fredis Antonio Hernandez (“Plaintiff”) filed a class action lawsuit in federal court against Dyck-O’Neal, Inc. (“Defendant” or “DONI”) alleging that Defendant violated the Fair Debt Collection Practices Act (“FDCPA”) by representing to Plaintiffs and other class members that they owed interest and fees on mortgage loans for periods in which Defendant or prior owners or servicers of the loans had not sent monthly statements. The law requires that a debt collector, like Defendant, not make material misrepresentations in the attempted collection or collection of a consumer debt such as a mortgage. Plaintiff alleged that Defendant violated the law by misrepresenting the amounts owed by him and the other class members.

Defendant denies that it did anything wrong or that it violated any laws. Defendant maintains that it had the right to assess, attempt to collect, and collect interest and fees for periods in which it or a prior owner or servicer of the mortgages failed to send monthly statements. The Court has not decided that Defendant violated the FDCPA. Nor has the Court made any determination that this lawsuit should proceed as a class action, as opposed to an individual claim brought by Plaintiff. This Notice should not be interpreted as an expression of the Court’s opinion on which side is right or wrong. If the parties had not reached a settlement, Defendant would have vigorously defended the lawsuit and asked for a ruling in its favor.

Within the Settlement, you are a member of the “Settlement Class.” The Settlement Class is all consumers: (1) with a non-performing mortgage loan owned by Defendant as of January 1, 2024; (2) to whom Defendant caused written correspondence to be sent in the one year predating the filing of the lawsuit; (3) that contained a demand for payment that included a late fee or interest assessed by Defendant for time periods when the consumer did not receive monthly statements.

What Can I Get Out of the Settlement?

Cash Payments. A \$79,967.42 Statutory Damages Amount will be used to make cash payments to the Class.

If the Settlement is approved in full, the Settlement Class Members who do not opt out of the Settlement will receive equal settlement payments from the Statutory Damages Amount.

Depending on the final number of Settlement Class Members who do not opt out, it is estimated that each eligible Settlement Class Member will receive approximately \$282.57.

Cancellation of Interest and Other Debt Relief. Defendant has also agreed to cancel all retroactively assessed interest and fees associated with each Settlement Class Member's loan and not to collect or attempt to collect any additional interest against each Class Member's loan in the future. The total debt cancelled is approximately \$10,893,696. Defendant will also reallocate approximately \$426,818 in interest payments received from Class Members as of the date of final approval of the Settlement to the principal balance of the Class Members' mortgage loans.

If the Settlement is approved and you do not opt out, the principal balance of your loan will be approximately [INSERT] and the total amount of cancelled interest will be approximately [INSERT].

Who Are the Attorneys Representing the Class and How Will They be Paid?

The Court has approved lawyers to represent the Settlement Class ("Class Counsel"). If you prefer to hire your own attorney to represent you in this case, you may do so at your own expense. The attorneys who have been appointed by the Court to represent the Settlement Class are:

Kristi C. Kelly
Casey S. Nash
J. Pat McNichol
Matthew G. Rosendahl
Kelly Guzzo PLC
3925 Chain Bridge, Suite 202
Fairfax, VA 22030
(703) 424-7675
kkelly@kellyguzzo.com

You will not be charged for these lawyers. Subject to Court approval, Class Counsel will seek attorneys' fees and costs that will be paid by Defendant separately. Class Counsel may also seek a service award in an amount not to exceed \$5,000 to be paid to Plaintiff for his services in representing the Settlement Class. The attorneys' fees, costs, service award, and settlement administration expenses will be paid by Defendant separately from the \$79,967.42 Statutory Damages Amount and will therefore not affect the payment you could receive under the Settlement.

Deciding What You Want to Do

What Are My Options?

You have three options. You can (1) do nothing, (2) exclude yourself (in other words, “opt out”) from the Settlement, or (3) object to the Settlement.

This chart shows the consequences of selecting each option:

	Do nothing	Opt Out of the Class	Object to the Settlement
Am I bound by the terms of the Class if I...	Yes	No	Yes
Will I be able to receive money in the Settlement if I ...	Yes	No	Yes

Your options and rights are explained in the following sections, along with the steps you must take if you wish to opt out or object.

Staying in the Class

What Are the Consequences of Doing Nothing?

If you do nothing, you will remain in the Settlement Class and be bound by the Court’s orders. You will also receive an automatic payment as described above following approval by the Court of the Settlement.

You will not be able to pursue claims against Defendant that are covered by the Settlement’s release. All the Court’s decisions regarding the Settlement will apply to you and you will be bound by any judgment entered.

Opting Out

What Happens if I Opt Out of The Class?

If you exclude yourself from the Class, you will not receive any money from the Settlement. You will not be bound by any of the Court’s orders regarding the Class, or any judgment or release entered regarding the Class. You will retain any legal rights you may have against Defendant. You will be responsible for the fees and costs of any services provided by your own lawyer.

How Do I Opt Out?

If you wish to be excluded (or “opt out” of the class), you must mail a written request for exclusion addressed to the Hernandez FDCPA Settlement Administrator, PO Box 23698, Jacksonville, FL 32241. Your request for exclusion must be in writing, signed by you, and postmarked on or before Tuesday, June 18, 2024. The request must state: “I do not want to be part of the Settlement Class in *Hernandez v. Dyck-O’Neal*.” The request must also be dated and include your name, address, and telephone number. If you have a new address, please also inform the Administrator of the new address so they can update the appropriate records. If you exclude yourself, you are not eligible to receive a payment.

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Objecting to the Settlement

What Happens if I Object to the Settlement?

If you object according to the steps below, the Court will consider your objection. If it overrules your objection and approves the Settlement, you will be bound by the Court's decision, and you will remain a part of the Class and receive a payment.

How Do I Object to the Settlement?

You may object to all or part of the Settlement if you think it is not fair, reasonable and/or adequate. To object, you must file with the Court, and send copies to the parties' counsel, a written explanation of the reasons you think that the Court should not approve the Settlement. Be sure to sign the letter and include your name, address, and current phone number, and the basis of your objection including any documentation, and include a notation that it is for "*Hernandez v. Dyck-O'Neal, Inc.*, Civil Action No. 1:23-cv-1029 (E.D. Va.)." The deadline to file an objection is Tuesday, June 18, 2024. If you are represented by counsel in your objection, include that attorney's information.

Additional Information

When and Where Will the Court Decide Whether to Approve the Settlement?

The Court will hold a final approval hearing on Wednesday, August 28, 2024, at 10:00 a.m. before the Honorable Anthony J. Trenga, in the United States District Court for the Eastern District of Virginia, Albert V. Bryan U.S. Courthouse, 401 Courthouse Square, Alexandria, Virginia 22314. At the final approval hearing, the Court will consider whether the proposed Settlement is fair, reasonable, and adequate. The Court will also hear objections to the Settlement, if any. We do not know how long the Court will take to make its decision after the hearing. In addition, the hearing may be continued at any time by the Court without further notice to you. You should check the website www.hernandezfdcpasettlement.com after Thursday, August 28, 2024, to confirm the hearing date, the court approval process, and the Effective Date of the Settlement.

You do not have to appear at the final approval hearing to be eligible to receive a monetary payout. If the Court approves the Settlement, the Court's judgment as to the Settlement Class will be binding on all Settlement Class Members who do not validly exclude themselves.

Where Can I Get Additional Information?

This notice is only a summary of the proposed settlement. You can review more details about the proposed settlement and access additional documents, including the Complaint and the full Settlement Agreement, at the www.hernandezfdcpasettlement.com.