

Martha Towner
v.
1st MidAmerica 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 HAD A CHECKING ACCOUNT WITH 1ST MIDAMERICA CREDIT UNION FORMERLY KNOWN AS OLIN COMMUNITY CREDIT UNION (“1ST MIDAMERICA”) AND YOU WERE CHARGED AN OVERDRAFT FEE BETWEEN OCTOBER 20, 2005 AND OCTOBER 31, 2016, THEN YOU MAY BE ENTITLED TO A PAYMENT FROM A CLASS ACTION SETTLEMENT

The United States District Court for the Southern District of Illinois has authorized this Notice; it is not a solicitation from a lawyer.

SUMMARY OF YOUR OPTIONS AND THE LEGAL EFFECT OF EACH OPTION	
APPROVE THE SETTLEMENT AND RECEIVE A PAYMENT; YOU NEED NOT DO ANYTHING	Unless you exclude yourself from the settlement (see the next paragraph), then you will receive a check or a credit to your checking account (depending on whether you are still a member of 1st MidAmerica). The approximate amount of the payment you will receive and when you will receive it is described below.
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 1st MidAmerica, but you will not receive a payment. If you want to recover against 1st MidAmerica, 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, you <u>will</u> receive a payment and you <u>will not</u> be able to sue 1st MidAmerica for the claims asserted in this litigation. 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.

BASIC INFORMATION

1. What is this lawsuit about?

The lawsuit that is being settled is entitled *Martha Towner v. 1st MidAmerica Credit Union*, United States District Court, Southern District of Illinois, Case No. 3:15-cv-01162. The case is a “class action.” That means that the “Named Plaintiff,” Martha Towner, is an individual who is acting on behalf of all persons who were charged an overdraft fee at any time from October 20, 2005 through October 31, 2016, and, at the time such fee was imposed, that person had sufficient funds in the ledger balance but not the available balance in his or her account to complete the transaction. This group is called the “Class Members.” She is asserting claims for breach of contract, violations of the Electronic Funds Transfer Act and other causes of action. She seeks a refund of such alleged improper overdraft fees charged to Class Member accounts. 1st MidAmerica does not deny it charged overdraft fees but contends it did so properly and in accordance with the terms of its agreements and applicable law because 1st MidAmerica assesses overdrafts based on the available balance in a member’s account. 1st MidAmerica maintains that this practice is proper and was disclosed to its members, and therefore denies that its practices give rise to claims for damages by Ms. Towner or any Class Member.

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

You received this Notice because 1st MidAmerica's records indicate that you were charged overdraft fee(s) between October 20, 2005 and October 31, 2016, while your available balance was insufficient but your ledger balance contained enough money to complete the transaction at issue. 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 1st MidAmerica was contractually and otherwise legally obligated not to assess overdraft fees when the ledger balance was sufficient to pay for a transaction, and even if they were, there is uncertainty about whether the 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.

WHO IS IN THE SETTLEMENT

4. How do I know if I am part of the Settlement?

If you received this Notice, then 1st MidAmerica'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 three options: (1) do nothing and automatically participate in the 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?

To participate in the settlement, you need not do anything; so long as you do not opt out or exclude yourself (described in Questions 15 through 17, below), a payment will be made to you, either by crediting your account if you are still a member of 1st MidAmerica or by mailing a check to you at the last address on file with 1st MidAmerica (or any other address you provide).

The deadline for sending a letter to exclude yourself from or opt out of the settlement is August 30, 2017.

The deadline to file an objection with the Court is September 20, 2017.

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.

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 October 10, 2017.

THE SETTLEMENT PAYMENT

9. How much is the Settlement?

1st MidAmerica has agreed to create a Settlement Fund of \$500,000. 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 this Notice) will be paid out of this amount. The balance of the Settlement Fund will be divided among all Class Members based on the amount of eligible overdraft fees they paid.

The settlement also includes an agreement by 1st MidAmerica to change its disclosures regarding how it determines overdraft fees.

10. How much of the settlement fund will be used to pay for attorney fees and costs?

Class Counsel has requested that the Court award 33-1/3% (one-third) of the settlement as attorneys’ fees. Class Counsel has also requested that it be reimbursed an amount not to exceed \$70,000 in litigation costs incurred in prosecuting the case. The Court makes the decision based on the request for attorneys’ fees and costs, and will decide the amount of the attorneys’ fees 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 Claims Administrator’s expenses?

The Claims Administrator has agreed to cap its expenses at \$42,000.

12. How much will my payment be?

After payment of attorneys’ fees and costs of litigation, the Service Award payment to the Named Plaintiff and the costs of the Claims Administrator, there will be approximately \$221,333.33. That equates to a refund of about \$2.32 for every allegedly improper eligible overdraft fee of \$20 imposed.

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

No. As long as you do not opt out, a credit will be applied to your checking account if you are an existing member, or a check will be mailed to you at the last known address 1st MidAmerica has for you if you are not an existing credit union member. If your address has changed, you should provide your current address to the Claims Administrator at the address set forth in Question 15, below.

14. When will I receive my payment?

The Court will hold a Fairness Hearing (explained below in Questions 21-23) on October 10, 2017 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 10 days. 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 1st MidAmerica 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 *Towner v. 1st MidAmerica Credit Union* class action." Be sure to include your name, last four digits of your member number, address, telephone number, and email address. Your exclusion or opt out request must be postmarked by August 30, 2017, and sent to:

Towner v. 1st MidAmerica Credit Union Claims Administrator
P.O. Box 404000
Louisville, KY 40233-4000

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 1st MidAmerica 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. (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 Court and the Claims Administrator at the addresses below. Your objection should say that you are a Class Member, that you object to the settlement, and the factual and legal reasons why you object. In your objection, you must include your name, address, telephone number, email address (if applicable) and your signature.

You should use the following form when you send your objection to the Court and the Claims Administrator:

Your Name

Your Address (not a post office box)

Your Telephone Number

Your e-mail address

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

Martha Towner,

vs.

1st MidAmerica Credit Union

Case No. 3:15-cv-01162

Objection to Class Settlement by

[Your Name]

Hearing Date: October 10, 2017

Time: 10:30 a.m.

Dept.: East St. Louis

[Reason For Your Objection]

Date: _____

[Signature]

All objections must be post-marked no later than September 20, 2017, and must be mailed as follows:

COURT	CLAIMS ADMINSTRATOR
United States District Court for the Southern District of Illinois Clerk of Court 750 Missouri Avenue East St. Louis, IL 62201	<i>Towner v. 1st MidAmerica Credit Union</i> Claims Administrator P.O. Box 404000 Louisville, KY 40233-4000

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 class, and asking the Court to reject it. You can object only if you do not opt out of the settlement. If you are in 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 1st MidAmerica. 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 1st MidAmerica 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 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

21. When and where will the Court decide whether to approve the settlement?

The Court will hold a Final Approval or Fairness Hearing at 10:30 a.m. on October 10, 2017 at the United States District Court for the Southern District of Illinois, located at 750 Missouri Avenue, East St. Louis, Illinois 62201. 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, and the Named Plaintiff’s Service Award. You will be considered a part of the class, and you will give up claims against 1st MidAmerica for the conduct alleged in this lawsuit. You will not give up any other claims you might have against 1st MidAmerica 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” will represent you and the other Class Members.

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

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

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.1stmidamericasettlement.com or view a physical copy at the Office of the Clerk of the United States District Court for the Southern District of Illinois, which is located at 750 Missouri Avenue, East St. Louis, Illinois 62201.

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.1stmidamericasettlement.com or at the Office of the Clerk of the United States District Court for the Southern District of Illinois, which is located at 750 Missouri Avenue, East St. Louis, Illinois 62201, by asking for the court file containing the Motion For Preliminary Approval of Class Settlement (the 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:

Towner v. 1st MidAmerica Credit Union Claims Administrator
P.O. Box 404000
Louisville, KY 40233-4000

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

Richard D. McCune
Jae (Eddie) K. Kim
McCune Wright Arevalo, LLP
3281 E. Guasti Road, Ste. 100
Ontario, CA 91761
Telephone: (909) 557-1250

Taras Kick
The Kick Law Firm, APC
201 Wilshire Boulevard
Santa Monica, CA 90401
Telephone: (310) 395-2988
Taras@kicklawfirm.com

***PLEASE DO NOT CONTACT THE COURT OR ANY REPRESENTATIVE OF
1ST MIDAMERICA CONCERNING THIS NOTICE OR THE SETTLEMENT***