

Notice of Proposed Class Action Settlement

Kirt Banister v. The Farmers National Bank of Canfield d/b/a Farmers National Bank

Court of Common Pleas of Mahoning County, Ohio, case no. 2022 CV 00214

If you are or were an Ohio resident who was a checking account holder for Farmers and, from 2016 through August 25, 2023, were on the Farmers checking account: (1) assessed an overdraft fee on a debit card transaction that was authorized on sufficient funds and settled on negative funds in the same amount for which the debit card transaction was authorized (“APSN Fees”); or (2) assessed multiple fees on an item and/or retired item (“Retry Fees”); or (3) assessed fees as a result of a verification process for your account (“Verification Fees”), you may be a member of a proposed Settlement Class.

THIS NOTICE AFFECTS YOUR RIGHTS. PLEASE READ THIS NOTICE CAREFULLY.

- Kirt Banister has sued Farmers and has alleged that Farmers improperly charged overdraft fees or insufficient funds fees (“NSF Fees”) on APSN transactions, Retry transactions, and Verification transactions (the “Litigation”). Farmers denies all of these claims.
- The parties in the Litigation have negotiated a Settlement to resolve the Litigation.
- The Court concluded that the Settlement Agreement falls within the range of possible approval and therefore is preliminarily approved as being sufficient. Accordingly, the Court has authorized the dissemination of notice to each Settlement Class Member.
- The Court has not found that Farmers did anything wrong. It has certified a class for settlement purposes. The Court has conditionally approved a settlement, and Farmers’ records show that you may be entitled to receive notice of the lawsuit and to receive an award under the Settlement.
- Your legal rights are affected, and you have a choice to make now.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT

- (1) **DO NOTHING** – By doing nothing, you will be included in the Settlement. Farmers will make a settlement payment to eligible Class Members reflecting a *pro rata* share of the \$785,000.00 Settlement Fund, after deducting Court-approved attorneys’ fees and expenses for counsel representing the Class and an incentive fee to Kirt Banister, and the costs of class notice and settlement administration. You will be losing your right to separately sue Farmers, as set forth in greater detail below.
 - (2) **ASK TO BE EXCLUDED** – If you ask to be excluded, you will not receive any money. However, you keep any rights to sue Farmers separately about the same legal claims in this lawsuit.
 - (3) **OBJECT** – You may object to any aspect of the Settlement that you think is unfair without opting out of the Settlement. The specific process for objecting to the Settlement is set forth in greater detail below.
- Your options are explained in this notice. To protect your legal rights, you must act before May 12, 2024.

QUESTIONS? Call 1-888-299-7484 or visit www.BanisterBankFeesSettlement.com

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BASIC INFORMATION

1. Why did I get this notice?

The Settlement Class in this case includes all Ohio residents who were checking account holders for Farmers and, from 2016 through August 25, 2023, were on the Farmers checking account:

(1) assessed an overdraft fee on a debit card transaction that was authorized on sufficient funds and settled on negative funds in the same amount for which the debit card transaction was authorized (“APSN Fees”); or (2) assessed multiple fees on an item and/or retired item (“Retry Fees”); or (3) assessed fees as a result of a verification process for your account (“Verification Fees”); you may be a member of a proposed Settlement Class.

Farmers’ records show that you are a person who falls within the definition of the Settlement Class. This notice explains that the Court has conditionally approved a class action settlement that may affect you. You have legal rights and options that you may exercise.

2. What is the Litigation about?

The Litigation involves claims that Farmers breached its accountholder agreements by charging overdraft or NSF fees on APSN transactions, Retry transactions, and Verification transactions. Farmers denies these claims. The parties have agreed to resolve this matter in order to avoid the uncertainty and high cost of litigation.

3. What is a class action and who is involved?

In a class action lawsuit, one or more people called a “Class Representative(s)” (in this case, Kirt Banister) sue on behalf of other people whom they believe have similar claims. The people together are a “Settlement Class” and are made up of Settlement Class Members. In this case, you are a member of the “Settlement Class.” In general, the person who sued—and all the Settlement Class Members—is called the Plaintiff. The company they sued (in this case, Farmers) is called the Defendant. One court resolves the issues for everyone in the Settlement Class—except for those people who choose to exclude themselves from the Settlement Class.

THE SETTLEMENT

4. What has Farmers agreed to do or pay?

The proposed Settlement calls for Farmers to establish a \$785,000.00 Settlement Fund (the “Monies Available for Settlement”), which will be used to pay Class Members, to pay Class Representative incentive payments to Kirt Banister, and to pay attorneys’ fees awarded by the Court to Class Counsel. If any of the Monies Available for Settlement cannot be distributed or go unclaimed, those funds will be donated to United Way of Youngstown and Mahoning Valley (this is called a “*cy pres* distribution”). If the Settlement is not approved, then Settlement Class Members will not get any benefits of the Settlement and the parties will go back to Court for further proceedings, possibly including a trial.

5. What can I receive?

If the Judge approves the Settlement, all Settlement Class Members who do not file a timely Opt-Out Request (“Participating Settlement Class Members”) will receive benefits from the Settlement in the form of a *pro rata* payment of each Class Members’ share of the Monies Available for Settlement.

CLAIMING SETTLEMENT FUNDS

6. How do I receive my portion of the Monies Available For Settlement?

If you do nothing in response to this notice, you will receive your *pro rata* share of the Monies Available for Settlement either as a direct deposit to your Farmers checking account if you have one open or in the form of a check sent by U.S. mail.

7. What if my address changes before the Monies Available For Settlement are distributed?

If you change your address, or if this notice was not mailed to your correct address, you should immediately provide your current address to the Settlement Administrator by letter or telephone to ensure that you receive future communications about the Litigation. If the Settlement Administrator does not have your correct address, you might not receive notice of important developments in the Litigation and you might not receive your share of the Settlement Funds.

YOUR RELEASE OF CLAIMS

8. What claims are included in the term Settled Claims?

Settled Claims means any claim arising out of or related to the facts or claims alleged in the Complaint relating to APSN Fees, Retry Fees, and Verification Fees, and includes any unknown claims that any of the Participating Class Members do not know or suspect to exist in their favor relating to the Class Settlement Claims at the time of the release which, if known by them, might have affected their settlement with, and release of, the Released Parties or might have affected their decision not to object to this Settlement. Released Parties are Farmers and its past, present or future subsidiaries, divisions, affiliates, parents, successors or assigns, and the past or present officers, directors, members, shareholders, partners, agents, employees, advisors, insurers, attorneys, representatives, trustees, heirs, executors, administrators, and predecessors or successors or assigns of any of the foregoing.

9. What does this release mean to me?

This release means that you could not bring a lawsuit against Farmers, or any of the Released Parties, for any reason relating to the Settled Claims. You would still be able to enforce other rights not related to the Settled Claims.

THE LAWYERS REPRESENTING YOU

10. Do I have a lawyer in this case?

The Court decided that Lynn A. Toops of Cohen & Malad, LLP; and J. Gerard Stranch, IV, of Stranch, Jennings & Garvey, PLLC are qualified to represent you and all Class Members. These lawyers are referred to as "Class Counsel."

11. Should I get my own lawyer?

You do not need to hire your own lawyer because Class Counsel is working on your behalf. If you want your own lawyer, you will have to pay that lawyer. For example, you can ask him or her to appear in Court for you if you want someone other than Class Counsel to speak for you.

12. How will Class Counsel be paid?

At the Final Hearing, or at such other time as the Court may direct, Class Counsel intends to apply to the Court for an award of attorneys' fees of one-third of the Settlement Fund (\$261,666.67), plus reimbursement of reasonable litigation expenses, to be distributed from the Monies Available for Settlement.

The parties also have agreed that KCC, LLC will serve as the Settlement Administrator of the Settlement. The fees and costs of the Settlement Administrator will be paid from the Monies Available for Settlement.

ALTERNATIVES

You have alternatives to participating in the Settlement and accepting Settlement Funds.

13. May I choose not to participate in the Settlement?

Yes, you may **CHOOSE NOT TO BE A MEMBER** of the Settlement Class. To do so, you must follow the procedure below to exclude yourself from the Settlement Class, that is "opt out," if you do not wish to be a member of the Settlement Class. If you opt out, you will not receive any of the benefits under the Settlement, but your rights, if any, to sue the Released Persons on the Settled Claims will not be barred by the Settlement. If you decide to opt out, you must send a letter stating so to the Settlement Administrator, KCC LLC, at *Banister v. The Farmers National Bank of Canfield* Settlement Administrator, P.O. Box 301130, Los Angeles, CA 90030-1130 by May 12, 2024.

14. What must the opt-out letter include?

The opt-out letter must: (a) contain a reference to "*Kirt Banister v. Farmers National Bank of Canfield d/b/a Farmers National Bank*, Court of Common Pleas of Mahoning County, Ohio, case no. 2022 CV 00214"; (b) include your name, address, and telephone number; (c) include a statement that you want to be excluded from the Class; (d) be signed personally by the person who seeks to be excluded from the Class; and (e) be postmarked by May 12, 2024.

15. May I submit an opt-out request on behalf of others?

No. No Settlement Class Member may opt out by having a request to opt out submitted by an actual or purported agent or attorney acting on his or her behalf. No opt-out request may be made on behalf of a group of members of the Settlement Class.

16. May I oppose the Settlement without opting out?

Yes, you may oppose or object to the proposed settlement of the Litigation or any aspect of it that you think is unfair. **The Court will hold a hearing on July 11, 2024, to determine whether the proposed settlement of the Litigation should be approved.** You do **not** need to attend this hearing, although you may if you wish. Each Class Member who wishes to object to the fairness, reasonableness, or adequacy of the Settlement Agreement or the proposed Settlement, or to the award of attorneys' fees and expenses or any incentive award to the Settlement Class Representative, shall provide to Class Counsel and Farmers' Counsel and file with the Court, at the below addresses, no later than May 12, 2024 a written statement of the objection, as well as the specific reasons, if any, for each objection, including any legal support he or she wishes to bring to the Court's attention and any evidence he or she wishes to introduce in support of his or her objections.

For the Court:

Court of Common Pleas
Attn: Chambers of Judge John M. Durkin
120 Market Street
Youngstown, OH 44503

For Class Counsel:

Lynn A. Toops
COHEN & MALAD, LLP
One Indiana Square, Suite 1400
Indianapolis, IN 46204
ltoops@cohenandmalad.com

For Defense Counsel:

Marcel C. Duhamel
VORYS, SATER, SEYMOUR AND PEASE LLP
200 Public Square, Suite 1400
Cleveland, OH 44114
mcduhamel@vorys.com

17. What does my objection need to include?

All written objections must be hand-signed by the Settlement Class Member and must include: (1) his or her name, address and telephone number; (2) a statement of the objection(s) and any supporting evidence he or she wishes to introduce; and (3) the case name and number of the Litigation.

GETTING MORE INFORMATION

18. Can I examine the Court's file?

Yes, you may **EXAMINE THE COURT'S FILE** in the clerk's office at the Court of Common Pleas of Mahoning County, Ohio, 120 Market Street, Youngstown, Ohio 44503.

19. How do I obtain more information?

You can obtain additional information about the lawsuit, including important documents and the Settlement Agreement, by visiting the settlement website at www.BanisterBankFeesSettlement.com or by contacting the Settlement Administrator at 1-888-299-7484.

PLEASE DO NOT CONTACT THE JUDGE OR FARMERS' COUNSEL