

Notice of Overby-Seawell Customer Data Security

Breach Class Action Settlement

If you received notice from Overby-Seawell, KeyBank, N.A., or Fulton Bank, N.A. that your personal information was potentially compromised in the Data Security Incident discovered in July 2022, you could get benefits from a class action settlement.

A federal court has authorized this notice. This is not a solicitation from a lawyer.

Please read this notice carefully and completely; your legal rights are affected whether you act or don't act.

THIS NOTICE MAY AFFECT YOUR RIGHTS. PLEASE READ IT CAREFULLY.

- A Settlement has been proposed in a class action lawsuit against Overby-Seawell (“OSC”) and KeyBank, N.A. (“KeyBank” and together with OSC “Defendants”). The Settlement resolves claims brought by customers impacted by the data incident discovered in July 2022 and resulting in the potential compromise of customers’ Personal Identifying Information (“PII”) (the “Data Security Incident”).
- You may be eligible to claim 3 years of financial account monitoring.
- You may also be eligible to receive a cash payment, increased or decreased depending upon the number of claims filed.
- In lieu of a cash payment, you may be eligible to claim reimbursement for documented monetary losses (maximum payment of up to \$6,000) from the proposed Settlement. Monetary losses may include up to five (5) hours of time spent dealing with the effects of the Data Security Incident, reimbursed at a rate of \$25 per hour.
- California residents from May 26, 2022 to the end of the claims period may claim an additional \$100.
- To receive a payment, you must complete and submit a Claim Form.
- Please read this notice carefully. Your legal rights will be affected, and you have a choice to make now.

Summary of Your Legal Rights and Options		Deadline
SUBMIT A CLAIM FORM	The only way to get a payment or credit monitoring.	Online or Postmarked by October 21, 2024.
EXCLUDE YOURSELF BY OPTING OUT	Get no payment. Keep your right to file your own lawsuit against Defendants for the same claims resolved by this Settlement.	Postmarked by September 20, 2024.
OBJECT TO THE SETTLEMENT AND/OR ATTEND A HEARING	Tell the Court the reasons why you do not believe the Settlement should be approved. You can also ask to speak to the Court at the hearing on December 9, 2024 about the fairness of the Settlement, with or without your own attorney.	Postmarked by September 20, 2024.
DO NOTHING	Get no payment and be bound by the terms of the Settlement.	

- These rights and options—and the deadlines to exercise them—are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made if the Court approves the Settlement after any appeals are resolved.

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BASIC INFORMATION

1. Why did I receive notice?

You received notice because you have been identified as a person who previously received a notice that your PII may have been accessed or exposed during the Data Security Incident. Similarly-situated individuals brought a proposed class action lawsuit against Defendants in 2023, alleging that Defendants were negligent due to their data security practices. Defendants denied the allegations and denied that they would be found liable. The parties have now reached a proposed Settlement of the lawsuit.

A court authorized this notice because you have a right to know about your rights under the proposed class action Settlement before the Court decides whether to approve the Settlement. If the Court approves the Settlement, and after objections and appeals are resolved, a Settlement Administrator appointed by the Court will make the payments that the Settlement allows, and the pending legal claims against Defendants will be released and dismissed.

This package explains the lawsuit, the Settlement, your rights, what benefits are available, who is eligible for them, and how to get them. The case is *In re Overby-Seawell Company Customer Data Security Breach Litigation*, Case No. 1:23-md-03056-SDG, currently pending in the United States District Court for the Northern District of Georgia, Atlanta Division. The Honorable Steven D. Grimberg, United States District Court Judge, is in charge of this case.

2. What is this lawsuit about?

This matter is a putative class action (the “Litigation”) arising from a Data Security Incident whereby cybercriminals gained unauthorized access to certain of Overby-Seawell's computer systems and data resulting in potential access to allegedly sensitive personal information associated with current and former customers of Overby-Seawell, KeyBank, N.A., or Fulton Bank, N.A., and of other persons identified by Defendants. Defendants are banks or financial services entities that, in the course of their businesses, collect Personal Identifying Information (“PII”) from customers. The lawsuit asserts common law and statutory claims against Defendants for alleged negligent data security practices, alleged breach of contract, statutory claims, and declaratory judgment.

Defendants deny any allegations of wrongdoing and deny that Plaintiffs would prevail or be entitled to any relief should this matter proceed to be litigated.

3. What is a class action?

In a class action, one or more people called “Class Representatives” sue on behalf of themselves and other people who have similar claims. This group of people is called the “class,” and the people in the class are called “Settlement Class Members” or the “Settlement Class.” One court resolves the issues for all Settlement Class Members, except for people who exclude themselves from the class. The persons who sued here (Mariann Archer, Mark Samsel, Tim Marlowe, Melissa Urciuoli, James Urciuoli, Patrick Reddy, Jacint “Jay” Pittman, Joseph John Turowski, Jr., Teresa Turowski, Melissa D. Kauffman, Lebertus Vanderwerff, Adrienne Khanolkar, Dhamendra “DK” Khanolkar, and Joynequa West) are called the Plaintiffs. The entities they sued—Overby-Seawell and KeyBank, N.A. —are called the Defendants.

4. Why is there a Settlement?

The Court did not decide in favor of Plaintiffs or Defendants. Instead, both sides agreed to a Settlement. That way, they avoid the costs and risks of a trial, and Settlement Class Members can get benefits or compensation. The Class Representatives and Class Counsel think the Settlement is in the best interest of the Settlement Class.

WHO IS IN THE SETTLEMENT

5. Who is in the Settlement?

The Settlement Class is defined as: “all individuals whose PII was compromised in the Data Security Incident.”

There is also a Fulton Bank Settlement Subclass that is defined as “All Settlement Class Members who provided their personal data to Fulton Bank, N.A. and were notified that their personal data may have been impacted as a result of Overby-Seawell Company’s Data Security Incident that it discovered on or about July 5, 2022.”

There are approximately 620,815 Class Members.

6. Are there exceptions to being included?

Yes, the following are not included in the Settlement Class: the judges presiding over this Action and members of their direct families, and Settlement Class Members who submit a valid Request for Exclusion prior to the Opt-Out Deadline.

7. What should I do if I am not sure whether I am included?

If you are not sure whether you are included in the Settlement Class, you can ask for free help by calling the Settlement Administrator at 1-844-906-1352 or you can visit www.Overbysettlement.com for more information.

THE SETTLEMENT BENEFITS

8. What does the Settlement provide?

Under the Settlement, Defendants will establish a non-reversionary settlement fund in the amount of Six Million Dollars (\$6,000,000). These funds will be used to pay for all valid claims made by Settlement Class Members, notice and administration costs, and attorneys' fees and costs. In no event shall Defendants pay more than \$6,000,000.

9. What can I get from the Settlement?

Settlement Class Members may file a claim for one or more of the following settlement benefits.

CASH PAYMENT. Settlement Class Members may submit a claim to receive a *pro rata* cash payment from the net Settlement Fund. The amount of this Cash Payment will increase or decrease depending upon the number of claims filed and approved.

IF YOU SELECT THIS CASH BENEFIT, YOU MAY NOT CLAIM MONETARY LOSSES OR LOST TIME BELOW.

DOCUMENTED MONETARY LOSSES: Settlement Class Members may submit a claim for reimbursement of documented monetary losses fairly traceable to the Data Security Incident up to \$6,000 per individual ("Monetary Losses"). Monetary Losses may include, without limitation, unreimbursed losses relating to fraud or identity theft; professional fees including attorneys' fees, accountants' fees, and fees for credit repair services; costs associated with freezing or unfreezing credit with any credit reporting agency; credit monitoring costs that were incurred on or after the Data Security Incident through the date of claim submission; and miscellaneous expenses such as notary, fax, postage, copying, mileage, and long-distance telephone charges. **You must provide proper documentation to make a successful claim for Monetary Losses.**

LOST TIME: Settlement Class Members with time spent remedying issues related to the Data Security Incident can submit a claim for reimbursement of \$25 per hour with an attestation. Claims made for Lost Time are subject to a five (5) hour cap and can be combined with reimbursement for Monetary Losses subject to the \$6,000 aggregate individual cap. No documentation other than an attestation shall be required for members of the Settlement Class to receive compensation for attested time spent.

Claims for Monetary Losses and Lost Time are subject to a *pro rata* decrease depending upon the number of claims filed and approved.

FINANCIAL ACCOUNT MONITORING: All Settlement Class Members can submit a claim for identity theft protection and credit monitoring services as follows: three (3) years of three-bureau coverage with at least \$1,000,000 of fraud/identity theft insurance. This service will be provided to all Settlement Class Members for a period of three years with the ability of Class Members to enroll for a period of 12 months (meaning that a Class Member could enroll up to the end of the first year and have coverage for the full three (3) years). Financial Account Monitoring and a claim for either a Cash Payment or Monetary Losses can be made together.

CALIFORNIA STATUTORY PAYMENT: Settlement Class Members who were residents of California from May 26, 2022 to the end of the claims period ("California Settlement Class Members") can submit a claim for payment of \$100 for their statutory claims under the California Consumer Privacy Act ("California Statutory Payment"). The California Statutory Payment is an additional settlement benefit made available to California Settlement Class Members that is in addition to either reimbursement of claims for Monetary Losses and/or Lost Time or the Cash Payment, and is subject to a *pro rata* decrease depending upon the number of claims filed and approved.

DEBIT FOR FULTON BANK SUBCLASS MEMBERS: All Fulton Bank Subclass Members who participated in the Fulton Bank Settlement will still be eligible to submit a claim in this Settlement. Any amounts received by Fulton Bank Subclass Members from the Fulton Bank Settlement for Reimbursement of Monetary Losses and/or Lost Time will be debited from any of the same benefits claimed by Fulton Bank Class Members in this Settlement.

10. What am I giving up if I stay in the Class?

If you are a Settlement Class Member and you do not exclude yourself from the Settlement, you will give up your right to sue, continue to sue, or be part of any other lawsuit against Defendants or other released parties concerning the claims released by this Settlement. The Settlement Agreement describes the legal claims that you give up if you remain in the Settlement Class. The entire text of the Settlement Agreement can be viewed at www.Overbysettlement.com.

HOW TO GET A PAYMENT – MAKING A CLAIM

11. How can I get a payment?

You must complete and submit a Claim Form by October 21, 2024. Claim Forms may be submitted online at www.Overbysettlement.com or printed from the website and mailed to the address on the form.

Be sure to read the Claim Form instructions carefully, include all required information, and provide your signature.

The Settlement Administrator will review your claim to determine the validity and amount of your payment.

This is a closed class. The benefits are available only to Settlement Class Members with a unique ID. All claims submitted by non-Settlement Class Members will be rejected.

12. How much will my payment be?

The amount of your payment will depend on the approved amount of your claim and the total value of all approved claims. It is anticipated that the Settlement Fund will be sufficient to provide a Cash Payment for all Settlement Class Members who select that option – however, should the claims exceed the amount of funds available, payments will be reduced on a *pro rata* basis.

If you are claiming Monetary Losses under the Settlement, you must describe the loss, any out-of-pocket expenses, their amount, and when and why you incurred them. If your claim is for expenses related to a credit freeze, credit monitoring, identity theft protection, similar services, or other expenditure, you must also attest that you incurred those losses in response to the Data Security Incident in this case.

Your Monetary Loss claim must be reasonably documented—you must enclose or upload documentation sufficient to show (a) the amount of unreimbursed loss that you suffered, and (b) why you believe that the loss is reasonably attributable to the Data Security Incident. Documents supporting financial expenses may include credit card or bank statements, emails, invoices, receipts, or telephone records, including photographs of the same. Personal statements or declarations are not considered reasonable documentation, but they may be used to provide clarification, context, or support for other documentation.

To claim reimbursement for time spent dealing with the effects of the Data Security Incident, you must merely attest that you spent the time claimed dealing with the effects of the Data Security Incident.

13. When will I get my payment?

The Court will hold a hearing on December 9, 2024 at 2:00 p.m. EST, to decide whether to approve the Settlement. Payments will be made after the Settlement is approved and becomes final (meaning there is no appeal from the order approving the Settlement). Updates regarding the Settlement will be posted on the Settlement Website, www.Overbysettlement.com.

THE LAWYERS REPRESENTING YOU

14. Do I have a lawyer in this case?

MaryBeth V. Gibson, Gibson Consumer Law Group, LLC and M. Anderson Berry, Clayeo C. Arnold, A Professional Corporation represent the Settlement Class. These lawyers are called Class Counsel. You will not be charged for their services.

15. Should I get my own lawyer?

If you want your own lawyer, you may hire one, but you will be responsible for any payment for that lawyer's services. For example, you can ask your own lawyer to appear in court for you if you want someone other than Class Counsel to speak for you. You may also appear for yourself without a lawyer.

16. How will the lawyers be paid?

The attorneys representing the Class have not yet received any payment for their legal services or any reimbursement of the costs or out-of-pocket expenses they have incurred. Class Counsel plans to ask the Court to award attorneys' fees from the Settlement Fund, not to exceed one-third of the Settlement Fund (i.e., not more than \$2,000,000). Class Counsel also may petition the Court for their out-of-pocket costs and expenses, not to exceed \$150,000.

The Settlement Class is represented by the Plaintiffs named above, who have been designated as the "Class Representatives." Class Representatives may make a claim for benefits like all other Class Members, but otherwise receive no compensation for the efforts they have expended on behalf of the Settlement Class.

The Court will determine whether to approve the amount of fees and costs and expenses requested by Class Counsel. Class Counsel will file an application for fees, expenses, and service awards no later than September 6, 2024. The application will be available on the Settlement Website, www.Overbysettlement.com, or you can request a copy by contacting the Settlement Administrator.

EXCLUDING YOURSELF FROM THE SETTLEMENT

17. How do I get out of the Settlement?

If you are a Settlement Class Member and you do not want the benefits from the Settlement, and you want to keep your right, if any, to sue Defendants on your own about the legal issues in this case, then you must take steps to get out of the Settlement. This is called excluding yourself from—or “opting out” of—the Settlement Class.

You may opt out of the Settlement by September 20, 2024. To opt out, you must send a letter or postcard via U.S. mail to the address below that contains the following information:

- Your full name, address, telephone number, and signature;
- The words “Request for Exclusion” at the top of the document or a clear statement of your intent to be excluded from the Settlement Class and Settlement.

You should also include the following in your letter or postcard: the name of this Litigation, or a decipherable approximation (*In re Overby-Seawell Company Customer Data Security Breach Litigation*, Case No. 1:23-md-03056-SDG);

You must mail your opt-out request via First-Class postage prepaid U.S. Mail, postmarked no later than September 20, 2024 to:

Overby-Seawell Settlement Administrator
P.O. Box 301134
Los Angeles, CA 90030-1134

If you fail to include the required information, your request will be deemed invalid and you will remain a Settlement Class Member and be bound by the Settlement, including all releases.

18. If I am a Settlement Class Member and don’t opt out, can I sue the Defendants for the same thing later?

No. You must opt out of the Settlement to keep your right to sue Defendants or other released parties for any of the claims resolved by the Settlement.

19. What happens if I opt out?

If you opt out of the Settlement, you will not have any rights as a member of the Settlement Class. You will not receive a payment as part of the Settlement. You will not be bound by the Settlement, releases, or by any further orders or judgments in this case. You will keep the right, if any, to sue on the claims alleged in the case at your own expense.

In addition, if you opt out of the Settlement, you cannot object to this Settlement because the Settlement no longer affects you. If you object to the Settlement and request to exclude yourself, your objection will be voided and you will be deemed to have excluded yourself.

COMMENTING ON OR OBJECTING TO THE SETTLEMENT

20. How do I tell the Court I don’t like the Settlement?

If you are a Settlement Class Member and you do not opt out of the Settlement, you can still object to the Settlement if you do not think it is fair, reasonable, or adequate. You can give reasons why you think the Court should not approve it. You can’t ask the Court to change or order a different settlement; the Court can only approve or deny this Settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object.

You may object to any part of the proposed Settlement in writing. You may also appear at the Fairness Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for paying that attorney.

All notices of an intent to object to the Class Settlement Agreement must be written and should include all of the following:

- a) Your full name, address, and telephone number;
- b) Your original signature;
- c) A statement that you object to the Settlement in whole or in part;
- d) A statement of the legal and factual basis for the Objection; and
- e) Copies of any documents that you wish to submit in support of your position.

Completed objections must be submitted via postal mail to the Settlement Administrator at the following address. The objection must be postmarked no later than September 20, 2024.

Overby-Seawell Settlement Administrator
P.O. Box 301134
Los Angeles, CA 90030-1134

Objections must also be filed with the Court. Completed objections may be submitted via postal mail to the Court at the following address, or by utilizing the Court’s Electronic Case Filing System (CM/ECF). The objection must be electronically filed or postmarked no later than September 20, 2024.

Clerk of the Court
United States District Court
Northern District of Georgia
75 Ted Turner Drive, SW
Atlanta, GA 30303-3309

If you object, you have the right, but are not required to, attend the Fairness Hearing. If an objecting Settlement Class Member intends to appear at the Fairness Hearing, either with or without counsel, he or she must also file a notice of appearance with the Court, as well as serve notice on Class Counsel and Defendants’ Counsel by the Objection Deadline of September 20, 2024.

21. What’s the difference between objecting and opting out?

Objecting is telling the Court that you don’t like something about the Settlement. You can object to the Settlement only if you are a Settlement Class Member and do not opt out of the Settlement. Opting out of the Settlement is telling the Court that you don’t want to be part of the Settlement. If you opt out of the Settlement, you cannot object to it because it does not affect you.

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 Hearing (also called the Fairness Hearing) on December 9, 2024 at 2:00 p.m. EST, at the United States Courthouse located at 75 Ted Turner Drive, SW, Atlanta, GA 30303-3309, before Judge Steven D. Grimberg. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate, and Class Counsel’s application for attorneys’ fees, costs, and expenses. If there are objections, the Court will consider them. The Court may choose to hear from people who have asked to speak at the hearing. At or after the hearing, the Court will decide whether to approve the Settlement. There is no deadline by which the Court must make its decision.

The Court may reschedule the Fairness Hearing or change any of the deadlines described in this notice. The date of the Fairness Hearing may change without further notice to the Settlement Class Members. Be sure to check the website, www.Overbysettlement.com for updates.

Class Counsel will file a motion for final approval of the Settlement by November 25, 2024. Objectors, if any, must file any response to Class Counsel’s motion by November 29, 2024. Responses to any objections and any replies in support of final approval of the Settlement and/or Class Counsel’s application for attorneys’ fees, costs, and expenses will be filed by December 6, 2024.

23. Do I have to come to the Fairness Hearing?

No. Class Counsel will answer any questions the Court may have. You may attend at your own expense if you wish. If you send an objection, you do not have to come to the hearing to talk about it. As long as you mailed or filed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

24. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you should include a statement in your written objection (*see* Question 20) that you intend to appear at the hearing. Be sure to include your name, address, and signature as well. Notwithstanding the foregoing, it is in the judge’s discretion to let you speak at the Fairness Hearing. You cannot speak at the hearing if you opt out or exclude yourself from the Class.

IF I DO NOTHING

25. What happens if I do nothing at all?

If you are a Settlement Class Member and do nothing, you will not get any money from this Settlement, and you will not be able to sue the Defendants or other released parties for the claims released by the Settlement Agreement.

GETTING MORE INFORMATION

26. Are more details about the Settlement available?

This notice summarizes the proposed Settlement—more details are in the Settlement Agreement and other case documents available at www.Overbysettlement.com; by reviewing the case docket and filings online at CM/ECF-GA Northern District Court (uscourts.gov); or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of Georgia, 75 Ted Turner Drive, SW, Atlanta, GA 30303-3309, between 8:00 a.m. and 4:45 p.m., Monday through Friday, excluding Court holidays.

27. How do I get more information?

Visit the website, www.Overbysettlement.com, where you will find more information, including the Claim Form, a copy of the Settlement Agreement, and answers to questions about the Settlement and other information to help you determine whether you are eligible for a payment.

Contact the Settlement Administrator, Overby-Seawell Settlement Administrator at 1-844-906-1352 or by writing to Attn: Overby-Seawell Settlement at:

Overby-Seawell Settlement Administrator
P.O. Box 301134
Los Angeles, CA 90030-1134

**PLEASE DO NOT CONTACT THE COURT, THE COURT CLERK'S OFFICE,
OR DEFENDANTS TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.**