

NOTICE OF CLASS ACTION SETTLEMENT

MIDDLE DISTRICT OF FLORIDA

Torres v. Wendy's International, LLC
Case No. 6:16-cv-210-PGB-DCI

If you used a credit, debit, or other payment card at certain Wendy's branded restaurants between October 25, 2015 and June 28, 2016, you may be eligible for a cash payment from a data breach class action settlement.

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

- A Settlement has been reached with Wendy's International, LLC ("Wendy's") in a class action lawsuit asserting claims against Wendy's relating to a data security incident that occurred between October 25, 2015 and June 28, 2016, and arising out of third-party criminal attacks on the point of sale systems of certain of Wendy's independently owned and operated franchisee restaurants involving malware that targeted customer payment card-related information (the "Data Breach"). Wendy's denies all of the claims. The Settlement does not establish who is correct and is not an admission of fault, but rather is a compromise to end the lawsuit.
- In February 2016, Wendy's first reported that unusual payment card activity had affected some franchisee restaurants and that malware had been discovered on certain systems. The malware used in the Data Breach gathered data such as name, card number, expiration date, security and service codes, and other payment card-related information.
- For a list of impacted Wendy's franchisee restaurants and the exposure window of the Data Breach for each impacted location, go to www.wendysdatabreachsettlement.com. No Wendy's-owned locations were affected by the Data Breach, and not all Wendy's franchisee restaurant locations were affected by the Data Breach; only certain restaurants were impacted and at various times.
- The Settlement includes all residents of the United States whose "Personal Information" was compromised as a result of the Data Breach. Personal Information means information that is or could be used, whether on its own or in combination with other information, to identify, locate, or contact a person, and it also includes names, addresses, payment card numbers, expiration dates, security and service codes, and any other payment card-related information.
- The Settlement provides payments to people who submit valid claims for certain documented unreimbursed out-of-pocket expenses and lost time that resulted from the Data Breach.

Questions? Call 1-844-295-9845

WRRNTW1

Your legal rights are affected even if you do nothing. Read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
Submit a Claim	This is the only way to receive a payment for losses suffered as a result of the Data Breach.
Ask to be Excluded	You will not receive a payment, but you will retain any rights you currently have with respect to Wendy's and the issues in this case. This is the only option that allows you to bring your own lawsuit against Wendy's related to the Data Breach.
Object	Write to the Court about why you do not like the Settlement.
Go to the Hearing	Ask to speak in Court about the fairness of the Settlement.
Do Nothing	Get no payment. Give up rights to submit a claim or bring a different lawsuit against Wendy's related to the Data Breach.

- 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 grant final approval of the Settlement. Payments will only be made after the Court grants final approval of the Settlement and after any appeals are resolved.

Questions? Call 1-844-295-9845

BASIC INFORMATION	Page 4
1. Why was this Notice issued and why should I read it?	
2. What is this lawsuit about?	
3. Why is this lawsuit a class action?	
4. Why is there a Settlement?	
WHO IS IN THE SETTLEMENT?	Page 5
5. How do I know if I am included in the Settlement?	
6. What if I am not sure whether I am included in the Settlement?	
THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY	Page 5
7. What does the Settlement provide?	
8. What payments are available for Documented Expense Reimbursement?	
9. What payments are available for Undocumented Time Spent?	
HOW DO YOU SUBMIT A CLAIM?	Page 6
10. How do I get a payment?	
11. How will claims be decided?	
12. When will I get my payment?	
WHAT DOES WENDY’S GET?	Page 7
13. What am I giving up as part of the Settlement?	
EXCLUDING YOURSELF FROM THE SETTLEMENT	Page 7
14. If I exclude myself, can I get a payment from this Settlement?	
15. If I do not exclude myself, can I sue Wendy’s for the same thing later?	
16. How do I exclude myself from the Settlement?	
OBJECTING TO THE SETTLEMENT	Page 8
17. How do I tell the Court that I do not like the Settlement?	
18. What is the difference between objecting and asking to be excluded?	
THE LAWYERS REPRESENTING YOU	Page 9
19. Do I have a lawyer in this case?	
20. How will the lawyers be paid?	
THE COURT’S FAIRNESS HEARING	Page 10
21. When and where will the Court decide whether to approve the Settlement?	
22. Do I have to attend the hearing?	
23. May I speak at the hearing?	
IF YOU DO NOTHING	Page 10
24. What happens if I do nothing?	
GETTING MORE INFORMATION	Page 10
25. How do I get more information?	

BASIC INFORMATION

1. Why was this Notice issued and why should I read it?

The Court authorized this notice because you may be included in the settlement class and have a right to know about the proposed Settlement of this class action lawsuit and about all of your options before the Court decides whether to give “final approval” to the Settlement. This notice explains the legal rights and options that you may exercise before the Court decides whether to approve the Settlement.

Judge Paul G. Byron of the United States District Court for the Middle District of Florida is overseeing this case known as *Torres v. Wendy’s International, LLC*, Case No. 6:16-cv-210-PGB-DCI. The people who sued are called the Plaintiffs. Wendy’s is called the Defendant.

2. What is this lawsuit about?

The lawsuit claims that Wendy’s was responsible for the Data Breach and asserts claims such as: breach of implied contract, negligence, violation of the Florida Deceptive and Unfair Trade Practices Act, violation of the New York Business Law, N.Y. Gen. Bus. Law §§ 349 et seq., violation of the Tennessee Consumer Protection Act, Tenn. Code Ann. §§ 47-18-101 et seq., violation of the New Jersey Consumer Fraud Act, violation of the Texas Deceptive Trade Practices – Consumer Protection Act.

Wendy’s denies these claims and says it did not do anything wrong. The restaurants affected by the breach were independently owned by franchisees and were not owned or controlled by Wendy’s itself.

3. Why is this lawsuit a class action?

In a class action, one or more people called class representatives or representative plaintiffs sue on behalf of all people who have similar claims. Together, all of these people are called a class, and the individuals are called class members. One court resolves the issues for all class members, except for those who exclude themselves from the class. Here, the Representative Plaintiffs—Christine Jackson, Ashley McConnell, and Gerald Thomas—sued on behalf of a class of all customers of Wendy’s franchisee restaurants whose Personal Information was compromised as a result of the Data Breach.

4. Why is there a Settlement?

The Court did not issue a ruling in favor of the Plaintiffs or Wendy’s. Rather, both sides, with the assistance of a mediator, agreed to a settlement. The Settlement is not an admission that Wendy’s did something wrong, but rather is a compromise to end the lawsuit. By agreeing to settle, both sides avoid the cost and risk of a trial, and people who submit valid claims will get compensation. The Representative Plaintiffs and their attorneys believe the Settlement is fair, reasonable, and adequate and, thus, best for the Settlement Class.

WHO IS IN THE SETTLEMENT?

5. How do I know if I am included in the Settlement?

You are included in the Settlement if you reside in the United States and your Personal Information was compromised as a result of the Data Breach.

Specifically excluded from the Settlement Class are:

(i) Wendy's and its officers and directors; (ii) all Settlement Class Members who timely and validly request exclusion from the Settlement Class; (iii) the Judge or Magistrate Judge to whom the Action is assigned and any member of those Judges' staffs or immediate family members; and (iv) any other person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity or occurrence of the Data Breach or who pleads *nolo contendere* to any such charge.

6. What if I am not sure whether I am included in the Settlement?

The Settlement website at www.wendysdatabreachsettlement.com provides a list of affected Wendy's franchisee restaurant locations and the time period during which customers at that particular location may have had their Personal Information compromised. If you are not sure whether you are included in the Settlement, you may call 1-844-295-9845 with questions. You may also write with questions to Wendy's Data Breach Settlement Administrator, P.O. Box 404000, Louisville KY 40233-4000.

THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY

7. What does the Settlement provide?

The Settlement will provide cash payments to people who submit valid claims.

There are two types of payments that are available: (1) Documented Expense Reimbursement (Question 8) and (2) Undocumented Time Spent (Question 9). The aggregate total amount that any Settlement Class Member may receive in reimbursement for these two types of payments will not exceed \$5,000.

You may submit a claim for either or both types of payments. In order receive payment, you must submit a Claim Form with the required documentation.

8. What payments are available for Documented Expense Reimbursement?

Settlement Class Members are eligible to receive reimbursement of up to \$5,000 (in total) for unreimbursed out-of-pocket expenses resulting from the Data Breach, such as:

- costs and expenses spent addressing identity theft or fraud;
- losses caused by restricted access to funds (*i.e.*, costs of taking out a loan, ATM withdrawal fees);
- preventative costs including purchasing credit monitoring, placing security freezes on credit reports, or requesting copies of credit reports for review;
- late fees, declined payment fees, overdraft fees, returned check fees, customer service fees, and/or card cancellation or replacement fees;
- unauthorized charges on credit or debit cards that were not reimbursed;
- other documented losses that were not reimbursed; and
- up to five hours of documented time spent remedying issues relating the Data Breach (calculated at the rate of \$15 per hour).

9. What payments are available for Undocumented Time Spent?

Settlement Class Members who spent time and effort dealing with repercussions of the Data Breach, but do not have documentation of such time and effort, are eligible to submit a Claim Form for time spent in an amount of \$15 per hour up to two hours (\$30 total).

HOW DO YOU SUBMIT A CLAIM?

10. How do I get a payment?

To receive a payment, you must complete and submit a Claim Form. Claim Forms are available at www.wendysdatabreachsettlement.com or by calling 1-844-295-9845. Read the instructions carefully, fill out the Claim Form, provide the required documentation, and submit it online or mail it postmarked no later than **March 21, 2019** to:

Wendy's Data Breach Settlement Administrator
P.O. Box 404000
Louisville KY 40233-4000

11. How will claims be decided?

The Settlement Administrator will initially decide whether the information provided on each Claim Form is complete and valid. The Settlement Administrator may require additional information. If you do not provide the additional information in a timely manner, the claim will be considered invalid and will not be paid.

Approved Claims are those submitted in a timely manner and found to be valid by and in an amount approved by the Settlement Administrator.

Wendy's payments under the Settlement for (1) Approved Claims and (2) any Court-awarded attorneys' fees, costs and expenses, and service awards are capped at \$3,400,000 in total. If, after deducting the court-awarded attorneys' fees, costs and expenses, and service awards, the amount of Approved Claims is more than the balance remaining in the capped total, then each individual Approved Claim amount will be reduced in a *pro rata* (proportionate) amount. If, after deducting the court-awarded attorneys' fees, costs and expenses, and service awards, the amount of Approved Claims is less than the balance remaining in the capped total, then Wendy's will keep the balance.

Questions? Call 1-844-295-9845

12. When will I get my payment?

The Court will hold a hearing on **February 25, 2019** to decide whether to approve the Settlement. If the Court approves the Settlement after that, there may be appeals. It is always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. It also takes time for all the Claim Forms to be processed. Please be patient.

WHAT DOES WENDY'S GET?

13. What am I giving up as part of the Settlement?

If the Settlement becomes final and you do not exclude yourself from the Settlement, you will remain a Settlement Class Member and you will give up your right to sue Wendy's and Released Persons for any Released Claims arising out of or relating to the Data Breach. The specific claims being released are described below and in the "Release" section (§ VII) of the Settlement Agreement. In the Release, the Data Breach is referred to as the Security Incident. Capitalized terms in the Release below are defined in the Settlement Agreement. If you have any questions you can talk to the law firms listed in Question 19 for free or you can, of course, talk to your own lawyer.

Plaintiffs' Release

Upon the Effective Date, each Settlement Class Member, including Representative Plaintiffs, shall be deemed to have, and by operation of the Judgment shall have, completely, fully, finally, irrevocably, and forever released, relinquished, and discharged all Released Claims. Further, upon the Effective Date, and to the fullest extent permitted by law, each Settlement Class Member, including Representative Plaintiffs, shall, either directly, indirectly, representatively, as a member of or on behalf of the general public or in any capacity, be permanently barred and enjoined from commencing, prosecuting, or participating in any recovery in any action in this or any other forum in which any of the Released Claims are asserted.

It is the intent of the Parties that this Release shall not be considered, interpreted, or construed to prevent Settlement Class Members from pursuing claims related to the Security Incident against any person who is not a Released Person.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want to be part of this Settlement, but you want to keep the right to sue Wendy's about the legal issues in this case, then you must take steps to get out of the Settlement Class. This is called excluding yourself from – or is sometimes referred to as “opting out” of – the Settlement Class.

14. If I exclude myself, can I get a payment from this Settlement?

No. If you exclude yourself, you will not be entitled to any money from the Settlement, but you will not be bound by any judgment in this case.

15. If I do not exclude myself, can I sue Wendy's for the same thing later?

No. Unless you exclude yourself, you give up any right to sue Wendy's (and the Released Persons) for the claims that this Settlement resolves. You must exclude yourself from the Settlement Class to start your own lawsuit or to be part of any different lawsuit relating to the claims in this case. If you exclude yourself, do not submit a Claim Form to ask for a payment.

If you are requesting exclusion because you want to bring your own lawsuit based on the matters alleged in this class action, you may want to consult an attorney and discuss whether any individual claim that you may wish to pursue would be time-barred by the applicable statutes of limitations or repose.

16. How do I exclude myself from the Settlement?

To exclude yourself, send a letter that says you want to be excluded from the Settlement in *Torres v. Wendy's International, LLC*, Case No. 6:16-cv-210-PGB-DCI. Include your name, address, and signature. You must mail your exclusion request postmarked by **December 21, 2018**, to:

Wendy's Data Breach Settlement Exclusions
P.O. Box 404000
Louisville KY 40233-4000

OBJECTING TO THE SETTLEMENT

17. How do I tell the Court that I do not like the Settlement?

You can tell the Court that you do not agree with the Settlement or some part of it by objecting to the Settlement. The Court will consider your views in its decision to approve the Settlement. To object, you must file a written objection in this case, *Torres v. Wendy's International, LLC*, Case No. 6:16-cv-210-PGB-DCI, with the Clerk of the Court, and mail copies to Class Counsel and Defense Counsel at the addresses below.

Your objection must state: (1) your full name, address, telephone number, and e-mail address (if any); (2) information identifying you as a Settlement Class Member, including proof that you are a member of the Settlement Class; (3) a written statement of all grounds for the objection, accompanied by any legal support for the objection that you believe is applicable; (4) the identity of all counsel representing you; (5) the identity of all counsel representing you who will appear at the final fairness hearing; (6) a list of all persons who will be called to testify at the final fairness hearing in support of the objection; (7) a statement confirming whether you intend to personally appear and/or testify at the final fairness hearing; (8) your signature and the signature of your duly authorized attorney or other duly authorized representative (along with documentation setting forth such representation), if applicable; (9) a list, by case name, court, and docket number, of all other cases in which you (directly or through counsel) have filed an objection to any proposed class action settlement within the last 3 years; (10) a list, by case name, court, and docket number, of all other cases in which your counsel (on behalf of any person or entity) has filed an objection to any proposed class action settlement within the last 3 years; and (11) a list, by case name, court, and docket number, of all other cases in which you have been a named plaintiff in any class action or served as a lead plaintiff or class representative.

To be considered, your objection must be **filed** with the Clerk of the Court for the United States District Court for the Middle District of Florida no later than **December 21, 2018**. In addition, you must **mail** a copy of your objection to both Class Counsel and Defense Counsel, postmarked no later than **December 21, 2018**:

COURT	CLASS COUNSEL	DEFENSE COUNSEL
Clerk of the Court United States District Court 401 West Central Boulevard Orlando, FL 32801	John A. Yanchunis Morgan & Morgan Complex Litigation Group One Tampa City Center 201 N. Franklin Street 7 th Floor Tampa, FL 33602	Donald M. Houser Alston & Bird LLP 1201 West Peachtree Street Atlanta, GA 30309-3424

18. What is the difference between objecting and asking to be excluded?

Objecting is telling the Court that you do not like the Settlement and why you do not think it should be approved. You can object only if you are a member of the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class and do not want to receive any payment from the Settlement. If you exclude yourself, you have no basis to object because you are no longer a member of the Settlement Class and the case no longer affects you.

THE LAWYERS REPRESENTING YOU

19. Do I have a lawyer in this case?

Yes. The Court appointed John A. Yanchunis of Morgan & Morgan Complex Litigation Group as Lead Counsel. The Court also appointed the following attorneys as Class Counsel to represent the Settlement Class: Patrick A. Barthle of Morgan & Morgan Complex Litigation Group, Jean Sutton Martin of Law Office of Jean Sutton Martin PLLC, Ariana Tadler and Melissa Clark of Milberg Tadler Phillips Grossman LLP, John Emerson of Emerson Scott LLP, and Jeremy Glapion of Glapion Law Firm. If you want to be represented by your own lawyer, you may hire one at your own expense.

20. How will the lawyers be paid?

Class Counsel will ask the Court for an award for attorneys' fees of \$1,020,000, plus reasonable costs and expenses. Any award for attorneys' fees, plus reasonable costs and expenses, would compensate Class Counsel for investigating the facts, litigating the case, and negotiating the settlement and will be the only payment to them for their efforts in achieving this Settlement and for their risk in undertaking this representation on a wholly contingent basis.

Class Counsel will also ask the Court for service awards up to \$5,000 each for the Representative Plaintiffs Christine Jackson, Ashley McConnell, and Gerald Thomas.

Any award for attorneys' fees, costs and expenses for Class Counsel, and service awards to the Representative Plaintiffs must be approved by the Court. The Court may award less than the amounts requested. If approved, these amounts will be deducted from the \$3,400,000 capped total settlement amount prior to making payments to Settlement Class Members who submit valid Claim Forms. Class Counsel's papers in support of final approval of the Settlement and their application for attorneys' fees, costs and expenses, and service awards will be filed no later than **February 11, 2019** and will be posted on the Settlement website.

THE COURT'S FAIRNESS HEARING

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

The Court will hold a final fairness hearing at 10:30 a.m. on **February 25, 2019**, at the George C. Young Federal Annex Courthouse, Courtroom 4B, 401 West Central Boulevard, Orlando, Florida 32801. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are timely objections, the Court will consider them and will listen to people who have asked to speak at the hearing if such a request has been properly made. The Court will also rule on the request for an award of attorneys' fees and reasonable costs and expenses, as well as the request for service awards for the Representative Plaintiffs. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check www.wendysdatabreachsettlement.com or call 1-844-295-9845.

22. Do I have to attend the hearing?

No. Class Counsel will present the Settlement Agreement to the Court. You or your own lawyer are welcome to attend at your expense, but you are not required to do so. If you send an objection, you do not have to come to the Court to talk about it. As long as you filed your written objection on time with the Court and mailed it according to the instructions provided in Question 17, the Court will consider it.

23. May I speak at the hearing?

You may ask the Court for permission to speak at the final fairness hearing. To do so, you must file an objection according to the instructions in Question 17, including all the information required. Your objection must be **filed** with the Clerk of the Court for the United States District Court for the Middle District of Florida (Orlando Division) no later than **December 21, 2018**. In addition, you must **mail** a copy of your objection to both Class Counsel and Defense Counsel listed in Question 17, postmarked no later than **December 21, 2018**.

IF YOU DO NOTHING

24. What happens if I do nothing?

If you do nothing, you will not get any money from this Settlement, and after the Settlement is granted final approval and the judgment becomes final, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Wendy's and the other Released Persons about the Data Breach, ever again.

GETTING MORE INFORMATION

25. How do I get more information?

This notice summarizes the proposed Settlement. More details are in a Settlement Agreement. A copy of the Settlement Agreement is available at www.wendysdatabreachsettlement.com. You may also call the Settlement Administrator with questions or to get a Claim Form at 1-844-295-9845.