

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA**

**KLINGENSMITH ET AL. V. BP PRODUCTS NORTH AMERICA INC.,
CASE NO.: 07-CV-1065**

NOTICE OF CERTIFIED CLASS ACTION SETTLEMENT

- All persons who received electronically printed receipts from certain BP branded service stations located in Pennsylvania at the point of sale or transaction, in a transaction occurring between December 4, 2006 and September 30, 2007 may be eligible to receive a Settlement Check.
- The settlement resolves a lawsuit over whether BP Products North America Inc. (“BPPNA”) violated certain requirements imposed by the Fair and Accurate Credit Transactions Act (“FACTA”). It avoids costs and risks to you from continuing the lawsuit; entitles consumers like you to Settlement Checks; and releases BP from any liability.
- Court-appointed lawyers for the Class will ask the Court for attorneys’ fees and costs in the amount of \$175,000.00 to be paid separately by BPPNA.
- Your legal rights are affected whether you act, or do not act. Please read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:

| | |
|----------------------------|--|
| SUBMIT A CLAIM FORM | The only way to get a Settlement Check. |
| EXCLUDE YOURSELF | Get no Settlement Check. This is the only option that allows you to ever be part of any other lawsuit against BPPNA about the legal claims in this case. |
| OBJECT | Write to the Court about why you do not like the settlement. |
| GO TO A HEARING | Ask to speak in Court about the fairness of the settlement. |
| DO NOTHING | Get no payment. Give up rights. |

- 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 and after any appeals are resolved. Please be patient.

1. What is this lawsuit about?

Melanie A. Klingensmith and Billie Lee Sonntag (“Plaintiffs”), on behalf of all members of the class, have asserted that **BP Products North America, Inc.** (“BPPNA”) violated certain requirements imposed by the Fair and Accurate Credit Transactions Act (“FACTA”). Specifically, plaintiffs claim that certain BP branded service stations in Pennsylvania printed the expiration date and/or more than the last five digits of their customers’ credit or debit cards on receipts presented to them in violation of FACTA, as specifically set forth in the Complaint on file and available at the Court at 700 Grant Street, Suite 3100, Pittsburgh, PA 15219. BPPNA denies any liability or wrongdoing. **NEITHER PLAINTIFFS NOR ANY CLASS MEMBER HAS SUSTAINED ANY ACTUAL MONETARY INJURY AS A RESULT OF THE ISSUES IN DISPUTE IN THIS LITIGATION.** HOWEVER, FACTA REQUIRES THAT THE EXPIRATION DATE BE DELETED AND THE CARD NUMBER BE TRUNCATED FROM DEBIT AND CREDIT CARD RECEIPTS PRESENTED TO CUSTOMERS AT THE POINT OF SALE.

2. Why is this a class action?

In a class action, one or more people called Class Representatives (in this case Melanie A. Klingensmith and Billie Lee Sonntag), sue on behalf of people who are similarly situated and have similar claims. All these people are Class Members. One court resolves the issues for all Class Members, except for those who exclude themselves from the Class. U.S. District Judge Gary L. Lancaster is in charge of this class action.

3. Why is there a settlement?

The Court did not decide in favor of Plaintiffs or Defendant. The Plaintiffs think they could have prevailed at a trial. The Defendant thinks the Plaintiffs would not have prevailed at trial. But there was no trial. Instead, both sides agreed to a settlement. That way, they avoid the cost of a trial, and the people affected will get compensation. The Class Representatives and the attorneys think the settlement is best for all Class Members.

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

Judge Lancaster decided that everyone who fits this description is a Class Member:
All persons who received electronically printed receipts from any BP branded service station in the Commonwealth of Pennsylvania, at the point of sale or transaction, in a transaction occurring between December 4, 2006 and September 30, 2007, and wherein the receipt displayed (1) more than the last five digits of the person’s credit card or debit card number, and/or (2) the expiration date of the person’s credit or debit card number.

5. I'm still not sure if I am included.

If you are still not sure whether you are included, you can ask for free help. You can call 1-800-467-5241 or you can fill out and return the claim form to see if you qualify.

6. What does the settlement provide?

Class members who send in a valid claim form and one or more receipts issued between December 4, 2006 and September 30, 2007 that displayed more than the last five digits of the person's credit card or debit card number, and/or the expiration date of the person's credit or debit card number will be entitled to receive \$25.00 for each receipt submitted, up to a maximum of \$100.00 per class member.

Class members who send in a valid claim form and no receipts will be entitled to receive \$5.00 (\$5.00 being the maximum amount available per household).

The Settlement also imposes certain other requirements, which are set forth in detail in the Settlement Agreement.

The Settlement Agreement also requires that BPPNA shall donate \$5,000.00 to a charity or charities selected by BPPNA, subject to the approval of Class Counsel, which shall not be unreasonably withheld.

7. How can I get a Settlement Check?

If you believe you are a member of the class and desire to participate in this settlement, you should completely fill out the "Proof of Claim" form that accompanies this Notice and return it to the following address: BP Products North America, Inc., P.O. Box 9347, Minneapolis, MN 55440-9347. The "Proof of Claim" must be postmarked by **January 6, 2009**. If you have one or more receipts that did not comply with FACTA, be sure to include them with the claim form. You can also submit a claim form online. **CLAIMS FOR WHICH RECEIPTS ARE ATTACHED MUST BE MAILED.** Failure to fully follow the procedures will result in a class member receiving no relief under the settlement, but nonetheless being bound by any judgments, orders and releases in this case.

8. When would I get my Settlement Check?

The Court will hold a hearing on January 6, 2009, to decide whether to approve the settlement. If Judge Lancaster approves the settlement, after that, there may be appeals. It's always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. Please be patient.

9. What am I giving up to get a Settlement check or stay in the Class?

Unless you exclude yourself, you are staying in the class, and that means that you can't sue, continue to sue, or be part of any other lawsuit against BP Products North America, Inc. or the

other entities released in the settlement agreement about the legal issues in *this case*. It also means that all of the Court's orders will apply to you and legally bind you.

10. Can I exclude myself from the Class?

If you do not wish to participate in this settlement, you must file an exclusion request with both the Clerk of Court and with Class Counsel on or before **December 27, 2008**. Your election to be excluded must contain the following information and must be signed by the class member who is requesting to be excluded: (1) the name of class member, (2) the current address of class member, and (3) the date signed. You must file a notice with both the Clerk of Court and with Class Counsel at the addresses below on or before **December 27, 2008**:

BP Exclusions
P.O. Box 7635
New Castle, PA 16107

United States District Court
Western District of Pennsylvania
700 Grant Street
Pittsburgh, PA, 15219

If you ask to be excluded, you will not get a Settlement Check, and you cannot object to the settlement. You will not be legally bound by anything that happens in this lawsuit. You may be able to sue BP Products North America, Inc. or the other entities released in the settlement agreement in the future regarding the legal issues in this case.

11. If I don't exclude myself, can I sue BP Products North America, Inc. for the same thing later?

No. Unless you exclude yourself, you give up any right to sue BP Products North America, Inc. and the other entities released in the settlement agreement for the claims that this settlement resolves. If you have a pending lawsuit, involving the same claims that this settlement resolves, speak to your lawyer in that case immediately. You must exclude yourself from *this* Class to continue your own lawsuit. If you have a pending lawsuit on matters not addressed in this settlement, you may continue that lawsuit against BPPNA.

12. If I exclude myself, can I get a Settlement Check from this Settlement?

No. If you exclude yourself, do not send in a claim form to ask for a Settlement Check.

13. Do I have a lawyer in this case?

The law firms of Carlson Lynch LTD and Mager & Goldstein, LLP represent you and other Class Members. These lawyers are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

14. How will these lawyers be paid?

Class counsel will ask the Court to approve payment of attorneys' fees and expenses of \$175,000.00. The fees would pay Class Counsel for investigating the facts, litigating the case, and negotiating the settlement. In addition, class counsel will ask for payment of \$2,500.00 each to Melanie A. Klingensmith and Billie Lee Sonntag for their services as Class Representatives. BP will separately pay the fees, expenses, and payments that the Court awards up to those maximum amounts. BPPNA has agreed not to oppose the request for these fees and expenses. BPPNA will also pay the costs to administer the settlement.

15. How can I object to the Settlement?

If you are a Class Member, you can object to the settlement if you don't like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must send a letter that you object to *Klingensmith v. BP Products North America, Inc.*. Be sure to include your name, address, telephone number, your signature, and the reasons you object to the settlement. You must file the objection with the Clerk of Court and with Class Counsel at the addresses below on or before **December 27, 2008**:

Gary F. Lynch, Esq.
Carlson Lynch Ltd.
36 N. Jefferson Street
P.O. Box 7635
New Castle, PA 16107

Darryl J. May, Esq.
Ballard, Spahr, Andrews & Ingersoll
1735 Market Street
51st Floor
Philadelphia, PA 19103

United States District Court
Western District of Pennsylvania
700 Grant Street
Pittsburgh, PA, 15219

Objectors who fail to properly or timely file their objections with the Court, or to serve them as provided above, shall not be heard during the Fairness Hearing, nor shall their objections be considered by the Court.

16. What's the difference between objecting and excluding?

Objecting is simply telling the Court that you don't like something about the settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you don't

want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

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

The District Court will hold a hearing to decide whether to approve the settlement. The Fairness Hearing will be held on January 6, 2009 at the Court, 700 Grant Street, Pittsburgh, PA 15219. At this hearing, the Court will consider whether the settlement is fair, reasonable and adequate. If there are objections or requests to be heard, the Court may consider them at the hearing. The Court may also decide the amount of attorneys' fees and costs to be paid to plaintiffs' class counsel.

18. Do I have to come to the Hearing?

No. Class Counsel will answer questions Judge Lancaster may have. But, you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

19. May I speak at the hearing?

At the final settlement hearing on January 6, 2009, class members may be heard orally in support of, or if they have timely submitted objections by December 27, 2008 in opposition to the settlement. You cannot speak at the hearing if you excluded yourself.

20. What happens if I do nothing at all?

If you do nothing, you will not get a Settlement Check from this settlement. But, unless you exclude yourself, you won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against BP about the legal issues in this case, ever again.

21. How do I get more information?

The foregoing is only a summary of the circumstances surrounding the litigation, the claims asserted, the class, the settlement, and related matters. You may seek the advice and guidance of your own private attorney, at your own expense, if you desire. For more detailed information, you may review the pleadings, records, and other papers on file in this litigation, which may be inspected during regular business hours at the Court, 700 Grant Street, Pittsburgh, PA, 15219. If you wish to communicate with class counsel identified above, you may do so by writing to Gary F. Lynch, Carlson Lynch Ltd., 36 N. Jefferson Street, P.O. Box 7635, New Castle, PA, 16107. Alternatively, you may call the offices of the firm at its toll free number 1-800-467-5241.