

## NOTICE OF SETTLEMENT APPROVAL ORDER (Long Form)

### Are you a customer of TD Bank?

#### If YES, A Class Action May Affect Your Rights. Read This Notice Carefully.

*A court authorized this notice. You are not being sued.*

Have you been charged a non-sufficient funds (NSF) fee on a pre-authorized debit transaction since February 2, 2019?

- You could be affected by a class action lawsuit. This notice is directed to every person resident in Canada who is or was a personal deposit account holder with TD Bank and whose personal deposit account has been charged a non-sufficient funds fee (“**NSF Fee**”) by TD Bank on a re-presented pre-authorized debit transaction between February 2, 2019 and November 27, 2023 (the “**Class**” or “**Class Members**”).
- The Court has approved a settlement in a class action on behalf of TD Bank customers in the Class.
- A \$15,900,000 settlement has been approved by the Court in a class action related to TD Bank’s allegedly improper charging of NSF fees on re-presented pre-authorized debits.
- The Court has approved a plan for the distribution of settlement funds, which sets out how the settlement funds plus any accrued interest, less counsel fees, funding fees, honorarium, disbursements, and applicable taxes will be distributed to class members.
- Read this notice carefully. It provides important information about the class action, the approved settlement, distribution of settlement funds, and Class Members’ rights in respect of the settlement and proposed distribution.
- You may want more information about this class action. This notice explains where you can get more information or legal advice.

## WHAT THIS NOTICE CONTAINS

<b>BASIC INFORMATION</b>	<b>Page</b>
1. Why was this notice issued?	3
2. What is this lawsuit about?	3
3. Why is this a class action?	3
4. Who is a member of the Class?	3
5. What is the status of the lawsuit?	4
<b>WHAT HAPPENS TO THE SETTLEMENT MONEY?</b>	<b>Page</b>
6. Amount available for distribution	4
7. Direct distribution of Net Settlement Funds	4
<b>YOUR RIGHTS AND OPTIONS</b>	<b>Page</b>
8. What do I need to do?	5
<b>THE LAWYERS REPRESENTING YOU</b>	<b>Page</b>
9. Do I have a lawyer in the case?	5
10. How will the lawyers be paid?	5
<b>GETTING MORE INFORMATION</b>	<b>Page</b>
11. How do I get more information?	5

## **BASIC INFORMATION**

### **1. Why was this notice issued?**

This notice was issued to advise Class Members that the Class Action has been settled, and that the settlement has received approval from the Ontario Superior Court of Justice. This notice explains the settlement and your rights in respect of the settlement.

The case is known as *Dufault v. The Toronto-Dominion Bank et al.*, Court File No. CV-21-00656203-00CP. The person who sued, Tyler Dufault, is called the Plaintiff. TD Bank is the Defendant.

### **2. What is this lawsuit about?**

The lawsuit says TD Bank improperly charges NSF fees on re-presented pre-authorized debit transactions, and includes class members who were charged an NSF Fee on a re-presented pre-authorized debit transaction between February 2, 2019 and November 27, 2023.

TD Bank does not admit any wrongdoing or liability and disagrees with the allegations in the lawsuit.

The settlement has resolved the litigation entirely.

### **3. Why is this a class action?**

In a class action, one person called the “representative plaintiff” (in this case, Tyler Dufault) sues on behalf of a group of people (in this case, TD Bank customers) who have similar claims. All of these people are a “class” or “class members.” The court resolves the issues for all class members in one case, except for those who remove themselves from the class.

### **4. Who is a member of the Class?**

The Class is defined as:

Every person resident in Canada who is or was a personal deposit account holder with TD Bank and whose personal deposit account has been charged a non-sufficient funds fee by TD Bank on a re-presented pre-authorized debit transaction from February 2, 2019 to November 27, 2023.

Not all members of the class will receive compensation. Only class members who are part of the Active Group, defined in section 7 below, will receive compensation.

Additional information about your eligibility for compensation can be found in the Settlement Agreement and by contacting Class Counsel.

## 5. What is the status of the lawsuit?

TD will pay \$15,900,000 to settle this lawsuit.

The settlement has been approved by the Ontario Superior Court of Justice. The settlement is a compromise of disputed claims and settles, extinguishes, and bars all claims relating in any way to or arising out of the class action against TD Bank.

The Court has not decided whether TD Bank did anything wrong. If the case had not settled (or if the proposed settlement had not been approved), the Plaintiff would have to prove his claims and the claims of the other class members against TD Bank at a trial. There is no guarantee that the Plaintiff would win any money or benefits for the class at trial.

## WHAT HAPPENS TO THE SETTLEMENT MONEY?

The Ontario Superior Court of Justice has approved a method of distributing the settlement funds achieved in this litigation (the “**Administration Protocol**”). A summary of the proposed Administration Protocol is below.

## 6. Amount available for distribution

Under the Administration Protocol, TD Bank will pay \$15,900,000 (“**Gross Settlement Funds**”). The Gross Settlement Funds, plus any interest, and less court-approved legal fees, funding fees, disbursements, Honorarium and applicable taxes are available for compensation to eligible Class Members who are in the Active Group (“**Net Settlement Funds**”).

The Court has approved a Class Counsel fee of \$4,252,500 plus \$522,825 for HST, disbursements of \$391,732.44, an Honorarium of \$10,000 for the representative plaintiff, and a litigation funder fee of \$952,935.40. These amounts will be deducted from the Gross Settlement Funds.

## 7. Direct distribution of Net Settlement Funds

Under the settlement, TD Bank will pay the Net Settlement Funds on a *pro rata* basis directly into the bank accounts of Active Group members.

The “**Active Group**” includes all Class Members: (1) who are Canadian residents; (2) who are TD personal deposit accountholders; (3) whose TD accounts are still open and able to accept deposits as of the distribution date; and (4) who were charged a \$48 NSF Fee as a result of a PAD and then within 30 days received a second \$48 NSF Fee as a result of a PAD from the same merchant and dollar amount as the first PAD, between February 2, 2019 to November 27, 2023. The amount available for distribution to class members is \$9,740,007.16.

## YOUR RIGHTS AND OPTIONS

The deadline to opt out of this Class Action was January 26, 2024, and was extended to February 12, 2024 by Court Order. The opt out deadline has now passed.

As a result, if you are a Class Member, you remain within this class action unless you have taken steps to opt out.

**8. What do I need to do?**

You do not need to do anything. If you have not taken steps to opt out, you automatically remain in the lawsuit. You are bound by all Court orders. You will receive compensation if you are part of the Active Group.

**THE LAWYERS REPRESENTING YOU**

**9. Do I have a lawyer in the case?**

Yes. The Court has appointed Koskie Minsky LLP from Toronto to represent Class Members as “Class Counsel.”

**10. How will the lawyers be paid?**

You will not have to pay any of Class Counsel’s fees or expenses outlined above. Class Counsel’s fees and expenses have been approved by the Court and will be deducted from the Gross Settlement Funds.

**GETTING MORE INFORMATION OR QUESTIONS**

**11. How do I get more information?**

You can get more information about this case by contacting Class Counsel.

**Koskie Minsky LLP**  
20 Queen St W  
Toronto, ON, M5H 3R3  
1-833-786-0010  
[tdbankclassaction@kmlaw.ca](mailto:tdbankclassaction@kmlaw.ca)

<https://kmlaw.ca/cases/td-bank-duplicative-nsf-fees-class-action/>