

NOTICE OF CLASS ACTION SETTLEMENT

UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF FLORIDA

In re: Checkers Data Security Breach Litigation,
Case No. 8:19-cv-01386-VMC-CPT (M.D. Fla.)

If you used a credit or debit card at certain Checkers and Rally's restaurants between December 2015 and October 2019, you may be eligible to receive 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.*

- A Settlement has been proposed in a class action lawsuit against Checkers Drive-In Restaurants, Inc. ("Checkers"), arising out of a data security incident that occurred between December 17, 2015 and October 12, 2019, and reported by Checkers on May 29, 2019 and November 15, 2019.
- From on or about December 17, 2015 to October 12, 2019, certain of Checkers and Rally's independently owned and operated franchisee restaurants were the target of third-party criminal attacks involving malware that targeted customers' payment card information (the "Data Breach"). The Data Breach potentially resulted in unauthorized access to customer payment card data, such as name, address, card number, expiration date, security and service codes, and other payment card-related information ("Personal Information").
- The Settlement includes all residents of the United States who made a credit or debit card purchase at an affected Checkers or Rally's restaurant during the period of the Data Breach.
- Not all Checkers and Rally's restaurant locations were affected by the Data Breach; only certain restaurants were affected and at various times. For a list of affected Checkers and Rally's restaurants and the exposure window of the Data Breach for each affected location, go to www.CheckersDataBreachSettlement.com.
- The Settlement provides compensation to Class Members who submit valid claims as follows: (i) reimbursement of up to \$5,000 for certain documented out-of-pocket expenses and lost time (up to 4 hours at \$20.00 per hour) that were incurred as a result of the Data Breach; or (ii) compensation in the form of four (4) Vouchers of \$5.00 each that may be redeemed at any Checkers and Rally's restaurant, for non-documented losses and time spent dealing with the repercussions of the Data Breach.

This Settlement affects your legal rights even if you do nothing.
Questions? Go to www.CheckersDataBreachSettlement.com or call 1-833-384-0111 (Toll-Free).

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 Form Deadline: October 28, 2020	This is the only way to receive a payment for losses suffered as a result of the Data Breach. For detailed information on how to submit a Claim Form, see Questions 10 through 12 below.
Ask to be Excluded from the Settlement Deadline: October 28, 2020	You will not receive a payment, but you will retain any rights you currently have with respect to Checkers and the issues in this case. This is the only option that allows you to bring your own lawsuit against Checkers related to the Data Breach. For detailed information on how to exclude yourself from the Settlement, see Questions 14 through 16 below.
Object to the Settlement Deadline: October 28, 2020	Write to the Court about why you do not like the Settlement. You may also write the Court to provide reasons why you support the Settlement. For detailed information on how to object to or comment on the Settlement, see Questions 17 and 18 below.
Go to the Final Approval Hearing December 8, 2020, at 10:00 a.m.	Ask to speak in Court about the fairness of the Settlement. If you wish to speak at the Final Approval Hearing, you must make a request to do so in your written objection or comment.
Do Nothing	Get no payment. Give up rights to submit a claim or bring a different lawsuit against Checkers 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.

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Questions? Go to www.CheckersDataBreachSettlement.com or call 1-833-384-0111 (Toll-Free).

WHAT THIS NOTICE CONTAINS

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?

SETTLEMENT BENEFITS–WHAT YOU GET IF YOU QUALIFYPage 5

- 7. What does the Settlement provide?
- 8. What payments are available for Document Expense Reimbursement?
- 9. What payments are available for Attested Expense Reimbursement?

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?

REMAINING IN THE SETTLEMENTPage 7

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

EXCLUDING YOURSELF FROM THE SETTLEMENTPage 8

- 14. If I exclude myself, can I get a payment from this Settlement?
- 15. If I do not exclude myself, can I sue Checkers for the same thing later?
- 16. How do I exclude myself from the Settlement?

OBJECTING TO THE SETTLEMENTPage 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 HEARINGPage 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 NOTHINGPage 10

- 24. What happens if I do nothing?

GETTING MORE INFORMATION.....Page 11

- 25. How do I get more information?

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Questions? Go to www.CheckersDataBreachSettlement.com or call 1-833-384-0111 (Toll-Free).**

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 Virginia M. Hernandez Covington of the United States District Court for the Middle District of Florida is overseeing this case known as *In re: Checkers Data Security Breach Litigation*, Case No. 8:19-cv-01386-VMC-CPT. The people who sued are called the Plaintiffs. Checkers is called the Defendant.

2. What is this lawsuit about?

The lawsuit claims that Checkers was responsible for the Data Breach and asserts claims such as: breach of implied contract, negligence, negligence per se, unjust enrichment, declaratory judgment, breach of confidence, and violations of the Florida Deceptive and Unfair Trade Practices Act, and California Unfair Competition Law.

Checkers denies these claims. Checkers claims, among other things, that the restaurants affected by the Data Breach were independently owned by franchisees and were not owned or controlled by Checkers itself. No court has made any judgment or other determination of any wrongdoing or violation of the law.

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” or “Class Members.” In this case, the Representative Plaintiffs are Breandan Cotter and Jack Dinh. One court resolves the issues for all Class Members, except for those who exclude themselves from the Class.

4. Why is there a Settlement?

The Court did not issue a ruling in favor of the Representative Plaintiffs or Checkers. Rather, both sides, with the assistance of a mediator, agreed to a settlement. The Settlement is not an admission that Checkers 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.

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WHO IS IN THE SETTLEMENT?

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

You are included in the Settlement Class if you reside in the United States and made a credit or debit card purchase at any affected Checkers or Rally's restaurant during the period of the Data Breach. For a list of affected Checkers and Rally's restaurants and the exposure window of the Data Breach for each affected location, go to www.CheckersDataBreachSettlement.com.

Specifically excluded from the Settlement Class are:

(i) Checkers 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.CheckersDataBreachSettlement.com provides a list of affected Checkers and Rally's restaurant locations and the exposure window of the Data Breach for each affected location. If you are not sure whether you are included in the Settlement, you may call 1-833-384-0111 with questions. You may also write with questions to:

Checkers Data Breach Settlement Administrator
1650 Arch Street, Suite 2210
Philadelphia, PA 19103

THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY

7. What does the Settlement provide?

The Settlement will provide cash payments and/or Vouchers that may be used at any Checkers or Rally's restaurant to people who submit valid claims.

There are two types of monetary relief that are available: (1) Documented Expense Reimbursement (Question 8) and (2) Attested Expense Reimbursement (Question 9).

You may submit a claim for either type of relief. In order receive cash payment or Vouchers, you must submit a Claim Form on or before the Claims Deadline (October 28, 2020).

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 documented out-of-pocket expenses resulting from the Data Breach, such as:

- costs and expenses spent addressing identity theft or fraud;

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- 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 four (4) hours of documented time spent remedying issues relating the Data Breach (calculated at the rate of \$20.00 per hour).

Failure to provide the required documentation for the Documented Expense Reimbursement Claim will cause the claim to be treated as an Attested Expense Reimbursement Claim as detailed in Question 9 below.

9. What payments are available for Attested Expense Reimbursement?

Settlement Class Members who attest that they used a credit or debit card at an affected Checkers and Rally's restaurant location during the Data Breach, but do not have documentation to support their claim, are eligible to submit a Claim Form to receive four (4) Vouchers of \$5.00 each, that may be used at any Checkers or Rally's restaurant. Vouchers are valid for one (1) year from the date of issuance and are freely transferrable.

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 may be submitted online, along with documentation (for Documented Expense Reimbursement claims) at www.CheckersDataBreachSettlement.com. Claim Forms may also be downloaded and printed from www.CheckersDataBreachSettlement.com or requested by calling 1-833-384-0111. Read the instructions carefully, fill out the Claim Form, provide the required documentation, and mail it postmarked no later than **October 28, 2020** to:

Checkers Data Breach Settlement Administrator
1650 Arch Street, Suite 2210
Philadelphia, PA 19103

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 required documentation for the Documented Expense Reimbursement Claim, your claim will be treated as an Attested Expense Reimbursement Claim. If you do not provide the required information for an Attested Expense Reimbursement Claim, the claim will be considered invalid and will not be paid. Class Counsel and Checkers also will have an opportunity to challenge any claims determined to be valid by the Settlement Administrator.

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Questions? Go to www.CheckersDataBreachSettlement.com or call 1-833-384-0111 (Toll-Free).

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

12. When will I get my payment?

The Court will hold a hearing on **December 8, 2020** 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.

REMAINING IN THE SETTLEMENT

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 Checkers for the claims being resolved by this Settlement. The specific claims you are giving up against Checkers are described in Article X of the Settlement Agreement. You will be “releasing” Checkers and all related people or entities described in Section 2.26 of the Settlement Agreement for claims related to the Data Breach. The Settlement Agreement is available at www.CheckersDataBreachSettlement.com.

The Settlement Agreement describes the released claims with specific descriptions, so read it carefully. Specifically, as defined in Section 2.27 of the Settlement Agreement, “Released Claims” mean any and all claims, rights, rights of set-off and recoupment, demands, actions, obligations, and causes of action of any and every kind, nature, and character, known and unknown, including without limitation, negligence, negligence per se, breach of contract, breach of implied contract, breach of fiduciary duty, breach of confidence, invasion of privacy, misrepresentation (whether fraudulent, negligent, or innocent), unjust enrichment, bailment, wantonness, failure to provide adequate notice pursuant to any breach notification statute or common law duty, any federal, state, or local statutory or regulatory claims, including, but not limited to, pursuant to consumer protection laws, unfair and deceptive trade practice laws, and further including, but not limited to, any and all claims for damages, injunctive relief, disgorgement, declaratory relief, equitable relief, attorneys’ fees, costs, and expenses, pre-judgment interest, credit monitoring services, the creation of a fund for future damages, statutory damages, punitive damages, special damages, exemplary damages, restitution, the appointment of a receiver, and any other form of relief that any Settlement Class Member has, has asserted, could have asserted, or could assert against any of the Released Persons based on, relating to, concerning, or arising out of the Data Breach Incident (including but not limited to the theft or compromise of Personal Information) or the allegations, facts, or circumstances described in the Litigation and/or Complaint.

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.

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Questions? Go to www.CheckersDataBreachSettlement.com or call 1-833-384-0111 (Toll-Free).

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 Checkers about the 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 benefits 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 Checkers for the same thing later?

No. Unless you exclude yourself, you give up any right to sue Checkers (and the released persons and entities) 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 from the Settlement, you must complete and sign a request for exclusion electronically on the Settlement website, or by mailing your request to the Settlement Administrator at the address below. To exclude yourself by mail, send a letter that says you want to be excluded from the Settlement in *In re: Checkers Data Security Breach Litigation*, Case No. 8:19-cv-01386-VMC-CPT. Include your name, address, and signature. You must mail your exclusion request postmarked by **October 28, 2020**, to:

Checkers Data Breach Settlement Administrator
ATTN: Exclusion Request
PO Box 58220
Philadelphia, PA 19102

OBJECTING TO THE SETTLEMENT

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

You can tell the Court that you do not agree with all or any part of the Settlement, Class Counsel’s request for attorney’s fees, costs, and expenses, and/or the request for service awards for the Representative Plaintiffs. The Court will consider your views in its decision to approve the Settlement. If the Court denies approval, no settlement payments will be sent out, and the lawsuits

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will continue. To object, you must file a written objection in this case, *In re: Checkers Data Security Breach Litigation*, Case No. 8:19-cv-01386-VMC-CPT, with the Clerk of the Court.

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) your signature and the signature of your duly authorized attorney or other duly authorized representative (along with documentation setting forth such representation); (4) a written statement of all grounds for the objection, including whether your objection applies only to you, a specific subset of the class, or the entire class, accompanied by any legal support for the objection that you believe is applicable; (5) the identity of all counsel representing you, if any; (6) a statement confirming whether you intend to personally appear and/or testify at the final fairness hearing; and (7) a list of all class action settlement agreements to which you have lodged an objection within the last five (5) years.

To be considered, your objection must be **postmarked** to the Clerk of the Court for the United States District Court Middle District of Florida no later than **October 28, 2020**.

Clerk of the Court
United States District Court
Middle District of Florida
Sam M. Gibbons Federal Courthouse
801 North Florida Avenue
Tampa, FL 33602

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 Tina Wolfson and Bradley K. King of Ahdoot & Wolfson, PC, Jean Sutton Martin of Morgan & Morgan, and Abbas Kazerounian and Jason Ibey, Esq. of Kazerouni Law Group, APC as Class Counsel to represent the Settlement Class. 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, costs and expenses of \$575,000, to 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.

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Class Counsel will also ask the Court for a service awards up to \$2,500 each for the Representative Plaintiffs Breandan Cotter and Jack Dinh.

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. 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 October 24, 2020 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 Approval hearing at 10:00 AM on **December 8, 2020**, at the Sam M. Gibbons Federal Courthouse, Courtroom 14B, 801 North Florida Avenue, Tampa, Florida 33602. 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.CheckersDataBreachSettlement.com or call 1-833-384-0111.

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 own 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 submitted 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 Approval 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 **postmarked** to the Clerk of the Court for the United States District Court for the Middle District of Florida (Tampa Division) no later than **October 28, 2020**.

IF YOU DO NOTHING

24. What happens if I do nothing?

If you do nothing, you will not get any compensation 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,

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continue with a lawsuit, or be part of any other lawsuit against Checkers (and other related persons and entities, as specified in the Settlement Agreement) 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.CheckersDataBreachSettlement.com. You may also call the Settlement Administrator with questions or to request a Claim Form be mailed to you by calling 1-833-384-0111.

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