

Bingham v. Acorns Grow, Inc. and Acorns Advisers, LLC
Superior Court of California for the County of Orange
Case No. 30-2019-01050842-CU-NP-CXC

If you received an overdraft fee or insufficient funds fee from your funding source bank after a transfer to Acorns, you may be entitled to benefits under a class action settlement.

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

- A proposed settlement will provide a total \$2,500,000.00, including legal fees, costs, and expenses (the “Settlement Fund”) to fully settle and release claims of all persons to whom this Notice is directed and as defined by the Settlement Class described below.
- Plaintiff alleges that customers experienced an improper overdraft or nonsufficient funds fee charged by their funding source or financial account on the same day or the day after they made a transfer from this funding source or financial account to Acorns. The Plaintiff claims that Acorns should have better disclosed the risk that third-party financial institutions could charge fees if customers did not keep sufficient funds in their accounts. Defendants deny each and every one of Plaintiff’s allegations of unlawful conduct, damages, or other injuries. The Court has not ruled on the merits of Plaintiff’s claims or Defendants’ defenses, and has not decided who is right. By entering into the settlement, the Defendants have not conceded the truth or validity of any of the claims against them, and deny these claims.
- The Settlement Fund shall be used to pay all amounts related to the settlement, including awards to Settlement Class Members who do not timely request to be excluded from the settlement, attorneys’ fees and costs to attorneys representing Plaintiff and the Settlement Class (“Class Counsel”), any service award for Named Plaintiff and the costs of notice and administration of the settlement. Monies remaining in the Settlement Fund after these payments are made will be redistributed on a *pro rata* basis to those Settlement Class Members who received an electronic fund transfer or cashed his or her initial Settlement Award check and/or to a *cy pres* recipient described below.
- Through the settlement, the Defendants have also agreed to certain injunctive relief and changes to their business practices for the benefit of Settlement Class Members. These benefits are more fully described in the Settlement Agreement, which can be found at www.AGoverDraftSettlement.com.
- Your rights and options, and the deadlines to exercise them, are explained in this Notice. Your legal rights are affected whether you act or don’t act. Read this Notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING	If you do nothing, you will have the ability to receive a payment and will give up your rights to sue the Defendants and/or any other released parties on a released claim.
EXCLUDE YOURSELF OR “OPT OUT” OF THE SETTLEMENT	If you ask to be excluded, you will not receive a payment. This is the only option that allows you to pursue your own claims against the Defendants and/or other released parties in the future. The deadline for excluding yourself is May 31, 2022.
OBJECT TO THE SETTLEMENT	Write to the Court about why you believe the settlement is unfair in any respect. The deadline for objecting is May 31, 2022.
GO TO THE FINAL APPROVAL HEARING	Ask to speak in Court about the fairness of the settlement. To speak at the Final Approval Hearing, you must file a document including your name, address, telephone number and your signature with the Court stating your intention to appear, no later than May 31, 2022, and comply with other obligations in the Settlement Agreement.

- 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.

BASIC INFORMATION

The purpose of this Notice is to inform you that a proposed settlement has been reached in the putative class action lawsuit entitled *Bingham v. Acorns Grow, Inc. and Acorns Advisers, LLC*, Case No. 30-2019-01050842-CU-NP-CXC (Orange County Superior Court). Because your rights will be affected by this settlement, it is extremely important that you read this Notice carefully. This Notice summarizes the settlement and your rights under it.

If you received an email describing this settlement, it is because Acorns’ records indicate that you may be a member of the Settlement Class. You are a member of the Settlement Class if you are one of the persons in the state of California who from February 13, 2015 through February 18, 2022, had an overdraft or nonsufficient funds fee the same day or day after an Acorns Transfer. Excluded from the Settlement Class are the officers and directors of Defendants, persons who have been separately represented by an attorney and entered into a separate settlement agreement, and persons who timely and validly request exclusion from the Settlement Class.

QUESTIONS? CALL TOLL-FREE 1-855-905-1548 OR VISIT WWW.AGOVERDRAFTSETTLEMENT.COM

In a class action, one or more people called Class Representatives (here, Josh Bingham) sue on behalf of people who allegedly have similar claims. This group is called a Class and the persons included are called Class Members. One court resolves the issues for all of the Class Members, except for those who exclude themselves from the Class.

Here, the Named Plaintiff alleges that some customers experienced an overdraft or nonsufficient funds fee charged by their funding source or financial institution on the same day or the day after making an Acorns Transfer. Plaintiff claims that Acorns should have better disclosed the risk that third-party financial institutions could charge fees if customers did not keep sufficient funds in their accounts. Defendants deny Plaintiff's allegations, deny any violation of California's consumer protection laws or any other laws, and deny any wrongdoing whatsoever. By entering into the settlement, the Defendants have not conceded the truth or validity of any of the claims against them, and deny these claims. The Court has conditionally certified a class action for settlement purposes only. The Honorable James J. Di Cesare is in charge of this action.

The Court did not decide in favor of Plaintiff or the Defendants. Instead, Plaintiff and Defendants agreed to this settlement. That way, they avoid the risk and cost of a trial, and the Settlement Class Members will receive compensation. Plaintiff and Class Counsel think the settlement is best for all persons in the Settlement Class.

WHO IS IN THE SETTLEMENT CLASS?

The Court has certified a class action for settlement purposes only. The "**Settlement Class**" is defined as:

All persons in the state of California who from February 13, 2015 through February 18, 2022, had an overdraft or nonsufficient funds fee on the same day or day after an Acorns transfer.

"Settlement Class Member" is defined as any person in the Settlement Class who is not validly excluded from the Settlement Class. If you are still not sure whether you are included, you can visit other sections of the Settlement Website, www.AGoverDraftSettlement.com, you may write to the Settlement Administrator at *Bingham v. Acorns Grow, Inc.* Settlement Administrator, P.O. Box 43529, Providence, RI 02940-3529, or you may call the Toll-Free Settlement Hotline, 1-855-905-1548, for more information.

THE LAWYERS REPRESENTING YOU

The Court has appointed the law firms of Lynch Carpenter, LLP and Kaliel Gold PLLC as Class Counsel to represent you and the other persons in the Settlement Class. You will not be personally charged by these lawyers. You also have the right to hire your own attorney at your own expense.

Class Counsel will ask the Court to approve payment of up to \$950,000.00 for attorneys' fees plus reasonable costs and expenses estimated at \$72,000.00. Class Counsel also will ask the Court to approve payment of \$5,000.00 to Named Plaintiff Josh Bingham for his service as Class Representative. The Court may award less than these amounts.

THE SETTLEMENT BENEFITS—WHAT YOU GET

Settlement Fund. Acorns will pay the total amount of \$2,500,000.00 into a fund (the "Settlement Fund"), which will cover: (1) cash payments to Settlement Class Members who do not request exclusion; (2) an award of attorneys' fees and costs to Class Counsel, plus expenses, as approved by the Court; (3) include a service award to the Plaintiff as approved by the Court; (4) the costs of notice and administration of the settlement, estimated at \$75,000.00; and (5) under certain circumstances as described below, a charitable contribution.

Cash Payments. All Settlement Class Members who do not request exclusion will receive a portion of the Settlement Fund, subject to an allocation formula. Each Settlement Class Members' individual *pro rata* payment amount will be determined according to a simple formula:

(Net Settlement Fund/Number of Settlement Class Members according to Acorns' business records)

No Portion of the Settlement Fund Will Return to Defendants. Any money remaining in the Settlement Fund after paying all Settlement Class Members, attorneys' fees and costs to Class Counsel, any service award to Plaintiff and the costs of notice and administration of the settlement will be redistributed on a *pro rata* basis to those Settlement Class Members who received an electronic funds transfer or cashed their initial Settlement Award check. No portion of the Settlement Fund will return to the Defendants. Only after a second distribution or if a second distribution is not feasible, any residual funds will be provided to *cy pres* recipient agreed to by the Parties, if approved by the Court.

Assuming each Settlement Class Member successfully receives an electronic funds transfer or check, the recovery per Settlement Class Member is approximately \$12.50, prior to deductions for any award of attorneys' fees and costs to Class Counsel, a service award to the Plaintiff, and the costs of notice and administration of the settlement. In the event certain funds are not successfully received by some Settlement Class Members, those remaining funds will be re-distributed to all Settlement Class Members who did successfully receive funds, so you may receive more than the amount listed above.

Unless you exclude yourself from the settlement, you will be part of the Settlement Class and will be bound by the release of claims in the settlement, and the Agreement's other terms. This also means that the Court's orders will apply to you and legally bind you. If the settlement is approved, you cannot rely on any Released Claim to sue or continue to sue the Defendants and/or any other Released Parties, as explained in the Settlement Agreement. A "Released Claim" is fully defined in the Settlement Agreement. In

QUESTIONS? CALL TOLL-FREE 1-855-905-1548 OR VISIT WWW.AGOVERDRAFTSETTLEMENT.COM

summary, it is a claim that was or could be asserted in the lawsuit reasonably related to the facts alleged in the operative complaint, including without limitation claims that arise from or relate to the manner in which Acorns transfers are made or attempted to be made, that arise from or relate to overdraft fees or insufficient funds charges, that arise from or relate to any statement, misrepresentation, or omissions by Acorns regarding or referring to the manner in which Acorns transfers are made or attempted to be made, overdraft fees, insufficient funds fees, or account balances. Unless you exclude yourself from the settlement, you will agree to release the Defendants and any other Released Parties, as defined in the Settlement Agreement, from any Released Claims that arise prior to Final Approval.

If you have any questions about the Release or what it means, you can speak to Class Counsel, listed above, for free, or you can, at your own expense, talk to your own lawyer. The Release does not apply to persons in the Settlement Class who timely exclude themselves.

Through the settlement, the Defendants have also agreed to certain injunctive relief and changes to Acorns' business practices for the benefit of Settlement Class Members. These benefits are more fully described in the Settlement Agreement, which can be found at www.AGoverDraftSettlement.com.

HOW TO OBTAIN A PAYMENT

No claim form is required to receive payment. If the Settlement is approved by the Court, the Settlement Administrator will send Settlement Class Members an email with a link allowing for the electronic transmission of Individual Payments by electronic money transmission services or allow Settlement Class Members to opt to receive payment by check.

WHEN WILL I RECEIVE MY SETTLEMENT PAYMENT?

The Court will hold a hearing on July 22, 2022 at 10:00 a.m. 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. Settlement Class Members will be informed of the progress of the settlement through information posted on the Settlement Website at www.AGoverDraftSettlement.com.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you want to keep the right to sue or continue to sue the Defendants or a Released Party, as defined in the Settlement Agreement, then you must take steps to get out of the Settlement Class. This is called excluding yourself from, or opting out of, the Settlement Class.

To exclude yourself from the settlement, you must send an exclusion request to the Settlement Administrator. To be valid, an exclusion request must: (1) state that you want to be excluded from the settlement in *Bingham v. Acorns Grow, Inc. and Acorns Advisers, LLC*, Case No. 30-2019-01050842-CU-NP-CXC (Orange County Superior Court); (2) include your name and address; (3) the email address associated with your Acorns account; (4) include a statement that you wish to be excluded from the Settlement Class; and (5) contain your signature. No request for exclusion will be valid unless all of the information described above is included. No person in the Settlement Class, or any person acting on behalf of or in concert or participation with that person in the Settlement Class, may exclude any other person in the Settlement Class from the Settlement Class.

To be valid, you must mail your exclusion request postmarked no later than May 31, 2022 to the Settlement Administrator at *Bingham v. Acorns Grow, Inc.*, Settlement Administrator, P.O. Box 43529, Providence, RI 02940-3529.

If you do not exclude yourself, you give up any right to sue (or continue to sue) the Defendants or any Released Parties for the claims that this settlement resolves.

If you ask to be excluded, you will not be able to receive a settlement payment and you cannot object to the settlement.

OBJECTING TO THE SETTLEMENT

If you are in the Settlement Class and do not opt out, you can object to the settlement or any part of the settlement that you think the Court should reject, and the Court will consider your views. You can ask the Court to deny approval by filing an objection. You can't ask the Court to order a different settlement; the Court can only approve or reject the 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.

If you do not provide a written objection in the manner described below, then absent good cause found by the Court you shall be deemed to have waived any objection and shall forever be foreclosed from making any objection to the fairness, reasonableness, or adequacy of the settlement or the award of any attorneys' fees and costs and/or service awards.

To object, you must make your objection in writing, stating that you object to the settlement in the *Bingham v. Acorns Grow, Inc. Settlement*. To be considered by the Court, the written objection must be mailed by to the Settlement Administrator postmarked by May 31, 2022. Copies of your objection need NOT be mailed or served on Class Counsel and Defense Counsel.

For an objection to be considered by the Court, and absent good cause found by the Court, the objection must also set forth:

- i. the name of the filed action;
- ii. the objector's full name, address, Acorns account username and telephone number;
- iii. an explanation of the basis upon which the objector claims to be a Settlement Class Member;

QUESTIONS? CALL TOLL-FREE 1-855-905-1548 OR VISIT WWW.AGOVERDRAFTSETTLEMENT.COM

- iv. all grounds for the objection, accompanied by any legal support for the objection;
- v. the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the settlement, the fee application, or the application for the Service Award;
- vi. the identity of all counsel representing the objector who will appear at the Final Approval Hearing;
- vii. the number of times which the objector has objected to a class action settlement within the five years preceding the date that the objector files the objection, the caption of each case in which the objector has made such objection, and a copy of any orders related to or ruling upon the objector's prior objections that were issued by the trial and/or appellate courts in each listed case;
- viii. the number of times the objector's counsel and/or counsel's law firm have objected to a class action settlement within the five years preceding the date that the objector files the objection, the caption of each case in which the counsel or the firm has made such objection, and a copy of any orders related to or ruling upon counsel's or the firm's prior such objections that were issued by the trial and/or appellate courts in each listed case;
- ix. any and all agreements that relate to the objection or the process of objecting, whether written or verbal, between objector or objector's counsel and any other person or entity;
- x. a list of any persons who will be called to testify at the Final Approval Hearing in support of the objection;
- xi. a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing, and the objector's availability for discovery (including deposition) prior to the hearing; and
- xii. the objector's signature on the written objection (an attorney's signature is not sufficient).

To be considered, you must mail your objection to the Settlement Administrator at the address below.

Bingham v. Acorns Grow, Inc.
Settlement Administrator
P.O. Box 43529
Providence, RI 02940-3529

THE FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing at 10:00 a.m., July 22, 2022, at the Superior Court for the County of Orange, 700 W. Civic Center Dr., Santa Ana, CA 92701. Depending on the current pandemic, the Court may hold such a hearing virtually. The Court will still consider whether the settlement is fair, reasonable and adequate. If there are valid objections that comply with the requirements above, the Court also will consider them. The Court may also decide how much to pay to Class Counsel and Named Plaintiff.

The Final Approval Hearing may be moved to a different date or time without additional notice, or canceled altogether given the current pandemic, so it is a good idea to check the Settlement Website or the Court's register of actions website to confirm that the date has not been changed.

You do not need to attend this hearing, as Class Counsel will appear on behalf of the Settlement Class. But, you are welcome to come, or have your own lawyer appear, at your own expense.

If you file a valid, timely written objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney. To speak at the Final Approval Hearing, you must also file a document with the Court stating your intention to appear. For this document to be considered, it must include your name, address, telephone number and your signature. The document must be filed with the Court no later than May 31, 2022. You cannot speak at the hearing if you exclude yourself from the settlement or have not filed a timely and proper objection.

GETTING MORE INFORMATION

This Notice is only a summary of the proposed settlement. You can get a copy of the Settlement Agreement by visiting the Settlement Website, www.AGoverDraftSettlement.com, or you can write to the address on page 4 or call the Toll-Free Settlement Hotline, 1-855-905-1548. You can also email admin@AGoverDraftSettlement.com. Additional information is also available by visiting the office of the Clerk of the Court for the Superior Court for the County of Orange, 700 W. Civic Center Dr., Santa Ana, CA 92701 between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

DO NOT CALL OR WRITE TO THE COURT, THE CLERK OF THE COURT, ACORNS, OR ACORNS' COUNSEL ABOUT THE SETTLEMENT. ALSO, TELEPHONE REPRESENTATIVES WHO ANSWER CALLS MADE TO THE TOLL-FREE NUMBER ARE NOT AUTHORIZED TO CHANGE THE TERMS OF THE SETTLEMENT OR THIS NOTICE.

QUESTIONS? CALL TOLL-FREE 1-855-905-1548 OR VISIT WWW.AGOVERDRAFTSETTLEMENT.COM