

IN THE CIRCUIT COURT OF THE STATE OF OREGON
IN AND FOR THE COUNTY OF MULTNOMAH

STEVEN SCHARFSTEIN, individually and on behalf of all other similarly situated persons,

Plaintiff,

vs.

BP WEST COAST PRODUCTS, LLC, a Delaware limited liability company,

Defendant.

Case No. 1112-17046

**NOTICE OF CLASS ACTION
SETTLEMENT AND FINAL APPROVAL
HEARING**

WEBPAGE NOTICE

This Notice of Class Action Settlement and Final Approval Hearing has been provided for you because, if you are a Class Member, your legal rights may be affected by the settlement of a class action lawsuit pending in Multnomah County Circuit Court. The case is brought against BP West Coast Products, LLC, on behalf of ARCO and *am/pm* customers who used a debit card for their purchases in Oregon and were charged a 35-cent debit card fee. The defendant will be referred to in this Notice as “BPWCP” or “Defendant.” Please read this Notice carefully.

The purpose of this Notice is to advise you about a proposed settlement of this lawsuit (the “Settlement”) and how you are affected by the Settlement. The Notice will explain the steps you must take if you want to object to the Settlement. It provides important deadlines for doing so.

The Settlement is described in this Notice; the full text of the Settlement Agreement can also be accessed on this webpage.

1. Why does this Notice apply to me?

Records show who was a member of the class of ARCO or *am/pm* customers who are affected by the proposed Settlement of this Class Action Lawsuit. The Class consists of ARCO and *am/pm* customers who used a debit card for their purchases in Oregon and were charged a 35-cent debit card fee between January 1, 2011, and August 30, 2013. Based on prior proceedings in the case, we know who is in the Class and their mailing address. We gave notice to members of the Class in 2014 and 2015 that informed Class Members of the case and their entitlement to recover over \$164.00, as a result of a jury trial in Multnomah County Circuit Court in Portland, Oregon.

In March 2019, we mailed notice to Class Members advising them that the Court has preliminarily approved the Settlement.

2. What is this lawsuit about?

Steven Scharfstein was appointed to serve as Class Representative. The defendant is BP West Coast Products, LLC.

This class action lawsuit claims that BPWCP violated Oregon law by overcharging debit card purchasers for ARCO gas and by failing to properly disclose gas prices to consumers when it charged a 35-cent debit card fee on gasoline purchases made at Oregon ARCO gasoline stations or ARCO *am/pm* mini-marts. The case was tried to a jury, and the jury found that BPWCP violated the Oregon Unlawful Trade Practices Act, ORS 646.608. Based on the verdict, the trial court determined that each Class Member was entitled to collect \$200.00, less attorney fees. After attorney fees, each Class Member was entitled to collect at least \$164.00.

BPWCP appealed the judgment and the rulings in the trial court, and the Oregon Court of Appeals affirmed the trial court’s rulings and judgment. BPWCP still denies that it has done anything wrong, disputes many of the rulings made in this matter, and believes that the award proposed in this matter is excessive. Accordingly, BPWCP intends to continue its appeal to the United States Supreme Court.

BPWCP believes that the judgment against it is unconstitutional, but has agreed to settle the case and stop pursuing its appeal.

3. Who is in the Class?

The Class consists of all consumers who, between January 1, 2011, and August 30, 2013, bought BP-branded gasoline, including gasoline plus additional items, at Oregon ARCO stations or Oregon *am/pm* minimarkets, who paid with a debit card, and who were charged a debit card fee. But, excluded from the Class are 2,441 former Class Members who filed valid opt-out forms and are specifically identified in Exhibit A to the Amended General Judgment, which can be found on the settlement website www.DebitCardClassAction.com. Also excluded from the Class are attorneys for the Class; jurors and alternate jurors in the Lawsuit; any judge who sits on the Lawsuit; any person who previously settled or had a court, arbitrator, or other legal authority decide a claim involving a dispute over debit card fees charged by BPWCP, on or after January 1, 2011; and certain key employees of Kinsella Media and Epiq Global.

Class membership was confirmed through proceedings in 2014 and 2015.

4. What is the proposed Settlement?

Under the Settlement, Defendant agrees to pay to each Class Member 100% of the total base amount each Class Member is entitled to under the March 31, 2016 Amended General Judgment of the Court, plus 3% interest accruing from June 1, 2016, in two payments. Each Class Member will receive a total of at least \$185.00, which will be split into two payments, the first payment within 30 days from July 15, 2019, and the second payment within 30 days from July 15, 2020. In the event that court proceedings to review and approve the Settlement continue longer than is currently expected, one or both payments may be delayed until after the court proceedings conclude.

5. How do I object to this Settlement?

If you are a Class Member, you can object to any part of the Settlement. To object, you must submit a letter or other written document that includes the following:

- a) A heading referring to the Case Number 1112-17046, pending before the Multnomah County Circuit Court in the State of Oregon and entitled “*Steven Scharfstein v. BP West Coast Products.*”;
- b) A detailed written statement of the specific factual and legal basis for each objection, including why you have chosen to object;
- c) If you want to appear at the Final Approval Hearing, a statement that you intend to appear, and the grounds or specific reasons for your desire to appear and be heard (you do not have to attend the Final Approval Hearing to object to the Settlement);
- d) A list of and copies of all documents that you may seek to use at the Final Approval Hearing, and a list of the names of any witnesses that you want to present at the Final Approval Hearing; and
- e) If you are represented by counsel, counsel’s name, address, and telephone number. Any counsel representing you must file a notice of appearance and Points and Authorities in support of the objection, which brief shall contain any and all legal authority upon which you will rely and confirm whether the attorney intends to appear at the Final Approval Hearing.

Your objection and all supporting documents must be filed with the Clerk of the Court and delivered to the Class Administrator, Class Counsel, and Defendant’s Counsel at the addresses below so they are **received** no later than the Objection Deadline of **May 14, 2019**.

CLERK OF THE COURT	CLASS COUNSEL	DEFENDANT’S COUNSEL	CLASS ADMINISTRATOR
Clerk’s Office Multnomah County Circuit Court 1021 SW Fourth Ave. Portland, OR 97204	David Sugerman David F. Sugerman Attorney, PC 707 SW Washington St., # 600 Portland, OR 97204	Sarah J. Crooks Perkins Coie LLP 1120 NW Couch St., 10 th Floor Portland, OR 97209	Scharfstein v. BP West Coast Products LLC Debit Card Class Action Administrator P.O. Box 3266 Portland, OR 97208-3266

6. What does it mean to object to the Settlement?

Objecting is simply telling the Court that you do not like something about the Settlement.

7. What happens if I do nothing?

If you are a Class Member and you do nothing, **you will receive a settlement payment consistent with the terms of the Settlement**, and you will be **barred from bringing any similar claims against Defendant**. You do not need to take any action to take advantage of this Settlement.

8. What are the attorneys' fees and expenses and the Class Representatives' compensation?

The Court already has determined the amount of Class Counsel's fees, costs, and expenses, which Class Members have had a prior opportunity to object to. The Settlement does not affect that prior determination of the Court. There are no additional fees, costs, or expenses requested.

9. What rights are being released by the Settlement?

If the Court approves the proposed Settlement, all Class Members will release their rights to collect 9% interest (as opposed to 3% under the Settlement) on the money that is owed to them under the March 31, 2016 Amended General Judgment of the Court. Also, Class Members agree that they will receive the money in two roughly equal payments. Additionally, all Class Members will release Defendant from any and all claims that were or could have been asserted in this Lawsuit. All Class Members will forever be permanently barred from bringing any claim related to this Lawsuit and the money owed to them under the March 31, 2016 Amended General Judgment of the Court against Defendant in the future.

BPWCP is releasing its right to continue its appeal and its chance to overturn the Amended General Judgment in its entirety.

10. What is the Final Approval Hearing, and when is it?

PLEASE TAKE NOTICE that a Final Approval Hearing will be held on **June 4, 2019 at 3:00 p.m.**, at the Multnomah County Circuit Court, 1021 SW Fourth Avenue, Portland, Oregon, 97204 to consider the final approval of this proposed Settlement. **You are not required to appear at the hearing**, but you may attend this hearing if you want to. At the Final Approval Hearing, the Court will consider

- a. whether the proposed Settlement is fair, reasonable, adequate, in good faith, and in the best interests of the Class Members; and
- b. whether a General Judgment of Dismissal and Final Approval Order should be entered approving the Settlement and superseding the March 31, 2016 Amended General Judgment, and releasing any related claims against Defendant.

If, after conducting the Final Approval Hearing, the Court grants final approval of the Settlement as set forth in the Settlement Agreement (including any modification or amendment thereto to which Defendants and Class Counsel agree), it shall enter a Final Approval Order and General Judgment of Dismissal. Defendant's obligations to make payments under the Settlement Agreement do not become effective until the Court grants final approval and the General Judgment of Dismissal becomes final, as defined in the Settlement Agreement.

11. Additional information

If you want additional information, please send correspondence to Scharfstein v. BP West Coast Products LLC, P.O. Box 3266, Portland, OR 97208-3266, or call toll-free at 1-866-329-5931. You may also contact Lead Class Counsel by emailing him at david@DavidSugerman.com or calling him at 503-228-6474.

You may also request to be mailed a Detailed Notice by emailing info@DebitCardClassAction.com. This email inbox is solely for requesting Detailed Notice and not for other forms correspondence.

Do not contact the Court directly. You may, however, refer to the pleadings in the public file with the Court, which can be inspected at the file room of the Clerk's Office, Multnomah County Circuit Court, 1021 SW Fourth Avenue, Portland, OR 97204.

With the exception of submitting an objection, please DO NOT call or write the Clerk of the Court or Defendant or Defendant's Counsel. Defendant is not authorized to provide any information relating to Settlement or any claims you may have in this matter.