

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT**

MARVEL MARTINEZ, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

Civil Action No. 3:20-cv-1772-JCH

AVANTUS, LLC, and Xactus, LLC, d/b/a
Avantus, as successor in interest to certain assets
of Avantus, LLC,

Defendants.

YOU ARE A MEMBER OF A CLASS ACTION

READ THIS NOTICE CAREFULLY

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

Plaintiff Marvel Martinez filed a class action lawsuit against Defendants Avantus, LLC and Xactus, LLC, successor in interest to certain assets of Avantus, LLC (“Defendants”) alleging that Defendants failed to maintain reasonable procedures to assure the “maximum possible accuracy” of information associated with consumers, in claimed violation of the Fair Credit Reporting Act, or “FCRA.” On January 5, 2023, the Court ordered that the case should proceed as a class action. The parties later reached a settlement that resolves the claims of the following people (the “Class”):

All persons residing in the United States and its Territories about whom Defendants sold a consumer report to a third party that included any OFAC record where there is not a match between the date of birth, address, or social security number of the subject of the report and the corresponding person on the SDN list, using its proprietary UltraAMPS OFAC product, during the period beginning July 6, 2020 and ending February 28, 2023.

“SDN” means a “Specially Designated National,” an individual who is included on the U.S. Department of Treasury’s Office of Foreign Asset Control or “OFAC” sanctions list.

According to records maintained by Defendants, you meet this definition.

The Settlement will provide a settlement fund of \$6,760,000 to pay people who are members of the Class. Lawyers for the Class will ask the Court for up to one-third of the settlement fund—as fees and expenses for investigating the facts, litigating the case, and negotiating the Settlement—and for \$15,000 to be paid to the Class Representative, Marvel Martinez, for his services to the Class.

**YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:
YOU CAN DO ONE OR MORE OF THE FOLLOWING**

DO NOTHING	Receive a payment of \$100.
FILE A CLAIM	If you incurred damages as a result of the Defendants’ alleged violations of the law, you may choose, <u>instead of the automatic payment of \$100</u>, to file a claim for damages. By filing a claim, you will receive a higher cash payment described more fully below.
OBJECT	Write to the Court about why you don’t like the Settlement.
REQUEST EXCLUSION	Ask to be excluded from the Settlement. You will not release any claims, or receive any payments from the Settlement.
GO TO A HEARING	Ask to speak in Court about the fairness of the Settlement.

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.

Basic Information

1. What is contained in this notice package?

This package explains the lawsuit, the Settlement, your legal rights, what benefits are available to you as a member of the certified Class, and how to get them.

You have a right to know about a proposed settlement of this class action lawsuit, and about all of your options, before the Court decides whether to approve the Settlement. If the Court approves the Settlement, and after objections and appeals are resolved, an administrator appointed by the Court will make the payments that the Settlement allows.

The Court in charge of the case is the United States District Court for the District of Connecticut. This class action is captioned as *Martinez v. Avantus, LLC*. The person who sued is called the Plaintiff, and the companies he sued are called the Defendants.

2. What is this lawsuit about?

The lawsuit claimed that Defendants failed to comply with the federal Fair Credit Reporting Act by reporting records from the U.S. Department of Treasury’s Office of Foreign Assets Control or “OFAC” list on credit reports of consumers who had applied for mortgage financing. Defendants deny that they did anything wrong. The Class Action Complaint and other pertinent documents are available on the website: www.MartinezOFACclassaction.com.

3. Why is this a class action?

In a class action, one or more people called the Class Representative (in this case Marvel Martinez), sue on behalf of people who have similar claims. All these people are a Class or Class Members. One court resolves the issues for all Class Members. The Honorable U.S. District Judge Janet C. Hall is in charge of this class action.

4. Why is there a Settlement?

The Court entered an Order certifying a Class, but did not decide in favor of the Plaintiff or the Defendants.

There was no trial. Instead, both sides agreed to a settlement after vigorous pre-trial litigation, including a mediation session with an experienced mediator, Rodney Max. By reaching a settlement agreement (available at www.MartinezOFACclassaction.com), the parties avoid the cost of a trial, and the people affected will get compensation. The Class Representative and the attorneys think the Settlement is best for all Class Members.

The Certified Class

5. Why am I part of the Settlement?

Everyone who meets this description is a Class Member:

All persons residing in the United States and its Territories about whom Defendants sold a consumer report to a third party that included any OFAC record where there is not a match between the date of birth, address, or social security number of the subject of the report and the corresponding person on the SDN list, using its proprietary UltraAMPS OFAC product, during the period beginning July 6, 2020 and ending February 28, 2023.

According to records maintained by Defendants, you fit this description.

The Settlement Benefits — What You Get

6. What does the Settlement provide?

The Settlement Agreement provides that Defendants will pay the sum of \$6,760,000 into a settlement fund.

The settlement fund will be used to make automatic payments of \$100 to each Class Member without the need to file a claim. In addition, part of the settlement fund will be used to pay higher payments for each Class Member who completes and submits the Claim Form accompanying this Notice.

Subject to the approval of the Court, the settlement fund shall also be used to pay a service award to the Class Representative in the amount of \$15,000, and Class Counsel's fees and expenses not to exceed one-third of the settlement fund. The settlement fund shall also be used to pay the costs of notice and settlement administration.

No portion of the settlement fund shall revert to Defendants. The Settlement provides that uncashed checks shall be paid to a non-profit organization to be approved by the Court. More details on all of the settlement benefits are set forth in the Settlement Agreement which is available at www.MartinezOFACclassaction.com.

7. When would I get my payment?

The Court will hold a Fairness Hearing on **February 27, 2024** in the United States District Court, Courtroom 1, 141 Church Street, New Haven, CT 06510 at 11:00 a.m. to decide whether to approve the Settlement. If Judge Hall approves the Settlement, after that, there may be appeals. It's always uncertain what the outcome of any appeals will be, and resolving them can take time, perhaps more than a year. **Please be patient.**

The Lawyers Representing You

8. Do I have a lawyer in this case?

The law firm of Francis Mailman Soumilas, P.C. in Philadelphia, Pennsylvania, represents you and other Class Members. The contact information for the law firm is:

FRANCIS MAILMAN SOUMILAS, P.C.
1600 Market Street, Suite 2510
Philadelphia, PA 19103
Tel: (215) 735-8600 or (877) 735-8600
avantussettlement@consumerlawfirm.com

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.

9. How will the lawyers be paid?

Class Counsel will ask the Court to approve payment to them of up to one-third of the settlement fund for attorneys' fees and expenses. The attorneys' fees would pay Class Counsel for investigating the facts, litigating the case, and negotiating the Settlement. The Court may award less than this amount. Defendants have agreed not to oppose the request for fees and expenses, up to one-third of the settlement fund. The costs of sending notice and administering the Settlement will also be paid from the settlement fund.

Requesting Exclusion

10. How do I ask to be excluded from the Settlement?

You may exclude yourself from the lawsuit and the Settlement by contacting the Settlement Administrator at:

Martinez v. Avantus, LLC
c/o Settlement Administrator
P.O. Box 16
West Point, PA 19486

All exclusion requests must be postmarked no later than **February 10, 2024**. Any Request for Exclusion must contain your original handwritten signature, current postal address, and a specific statement that you wish to be excluded from the Class. If you timely request exclusion from the Settlement, you will be excluded from the Settlement, you will not be bound by any judgment in the lawsuit, and you will not be precluded from prosecuting any timely claim you may have against Defendants based on the conduct complained of in the lawsuit. You will not receive any payments from the settlement fund.

Objecting to the Settlement

You can tell the Court that you don't agree with the Settlement or some part of it.

11. How do I tell the Court that I don't like the Settlement?

As 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 saying that you object to the Settlement in *Martinez v. Avantus*. Be sure to include your full name, address and telephone number; the reasons you object to the Settlement; whether you plan to come to the Fairness Hearing and whether you (or anyone else) want to speak; if you have a lawyer (who is not one of the lawyers for the Class), the name of the lawyer(s) representing you; and if they exist, any agreements or documents relating to your objection or the process of objecting.

Mail the objection to the three different places shown here, postmarked no later than **February 10, 2024**:

<u>COURT</u> Clerk of the Court District of Connecticut U.S. Courthouse 141 Church Street New Haven, CT 06510	<u>CLASS COUNSEL</u> Francis Mailman Soumilas, P.C. 1600 Market Street, Suite 2510 Philadelphia, PA 19103 Attention: James A. Francis, Esq.	<u>DEFENDANTS' COUNSEL</u> Troutman Pepper Hamilton Sanders LLP 222 Central Park Avenue, Suite 2000 Virginia Beach, VA 23462 Attention: David M. Gettings, Esq.
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The Court's Fairness Hearing

The Court will hold a hearing to decide whether to approve the Settlement. You may attend and you may ask to speak, but you don't have to.

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

The Court will hold a Fairness Hearing at 11:00 a.m. on **February 27, 2024**, in the United States District Court, Courtroom 1, 141 Church Street, New Haven, CT 06510.

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate and whether the requested payments to Class Counsel and Class Representative are proper. If there are objections, the Court will consider them. Judge Hall will also listen to people who have asked to speak at the hearing. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take.

13. Do I have to come to the hearing?

No. Class Counsel will answer questions Judge Hall 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.

14. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. If you plan to speak at the hearing because you don't like the Settlement, you must send a letter as described in Section 11. You must also file a notice of intent to appear at the hearing with the Court Clerk's office no later than **February 12, 2024**. You must send copies of the notice to both Class Counsel and Defendants' counsel at the addresses provided in Section 11.

If You Do Nothing

15. What happens if I do nothing at all?

If you do nothing, and if the Court approves the Settlement, you will still receive the \$100 automatic payment.

Getting More Information

16. How do I get more information?

This Notice summarizes the proposed Settlement. More details—including the Settlement Agreement, the Class Action Complaint, answers to common questions, plus other information to help you understand the Settlement—are available at www.MartinezOFACclassaction.com.