

SUPREME COURT FOR THE STATE OF NEW YORK, COUNTY OF NEW YORK

*Vandermark, et al. v. Mason Tenders' District Council Welfare Fund, et al.*, Index No.  
153365/2023

**If Mason Tenders' District Council Welfare Fund, Mason Tenders' District Council Pension Fund and Mason Tenders' District Council Annuity Fund notified you of a Data Incident in or around July 2022, you may be eligible for benefits from a class action settlement.**

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

*Si necesita ayuda en español, comuníquese con el administrador al 1-844-718-0382.*

- A Settlement has been reached in a class action lawsuit against Mason Tenders' District Council Welfare Fund, Mason Tenders' District Council Pension Fund, and Mason Tenders' District Council Annuity Fund (collectively "Mason Tenders" or "Defendants") concerning a data security incident that occurred in or around December 2021 through April 2022 (the "Data Incident").
- The lawsuit is called *Vandermark, et al. v. Mason Tenders' District Council Welfare Fund, et al.*, Index No. 153365/2023 (the "Action"). The lawsuit alleges that the Data Incident potentially exposed certain personal identifying information ("PII") and protected health information ("PHI") of Plaintiff and the members of the putative class.
- The Settlement Class includes all individuals who were sent notification by Mason Tenders that their personal information was or may have been compromised in the Data Incident. It excludes: (i) all Class Members who timely and validly request exclusion from the Settlement Class; (ii) the Judge assigned to evaluate the fairness of this settlement; and (iii) 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 occurrence of the Data Incident or who pleads *nolo contendere* to any such charge.
- Your legal rights are affected regardless of whether you act. Please read this notice carefully.

**YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT**

<b>SUBMIT A CLAIM FORM</b>	This is the only way you may receive benefits from this Settlement. The deadline to submit a Claim Form is October 3, 2023.
<b>EXCLUDE YOURSELF FROM THE SETTLEMENT</b>	You will receive no payment, but you will retain any rights you currently have with respect to Defendant and the issues in this case. The deadline to exclude yourself from the Settlement is September 5, 2023.
<b>OBJECT TO THE SETTLEMENT</b>	Write to the Settlement Administrator explaining why you do not agree with the Settlement. The deadline to object is September 5, 2023.

ATTEND THE  
FINAL APPROVAL  
HEARING

You or your attorney may attend and speak about your objection at the Final Approval Hearing. The Final Approval Hearing will be held on October 11, 2023

DO NOTHING

You will not get any benefits from the Settlement and you will give up certain legal rights. You will remain in the Settlement Class and be subject to the Release.

- These rights and options, and the deadlines to exercise them, are explained in this Notice. For complete details, please see the Settlement Agreement, whose terms control, available at [www.MTDCFundsSettlement.com](http://www.MTDCFundsSettlement.com).
- The Court in charge of this case still has to decide whether to approve the Settlement. No Settlement benefits or payments will be provided unless the Court approves the Settlement and it becomes final.

## BASIC INFORMATION

### 1. What is this Notice and why should I read it?

The Court authorized this Notice to inform you about a proposed Settlement with Mason Tenders. You have legal rights and options that you may act on before the Court decides whether to approve the proposed Settlement. This Notice explains the lawsuit, the Settlement, and your legal rights.

The case is called *Vandermark, et al. v. Mason Tenders' District Council Welfare Fund, et al.*, Supreme Court of the State of New York, County of New York, Index No. 153365/2023.

### 2. What is a class action lawsuit?

A class action is a lawsuit in which one or more plaintiffs—in this case, Plaintiff and Settlement Class Representative Kevin Vandermark—sue on behalf of a group of people who have similar claims. Together, this group is called a “Class” and consists of “Class Members.” In a class action, the court resolves the issues for all class members, except those who exclude themselves from the class.

## THE CLAIMS IN THE LAWSUIT AND THE SETTLEMENT

### 3. What is this lawsuit about?

Plaintiff claims that Defendants failed to implement and maintain reasonable security measures to adequately protect the PII in its possession and to prevent the Data Incident from occurring.

Defendants deny that they are liable for the claims made in the lawsuit and deny any allegations of wrongdoing. More information about the complaint in the lawsuit can be found on the Settlement Website at [www.MTDCFundsSettlement.com](http://www.MTDCFundsSettlement.com).

## 4. Why is there a Settlement?

The Court has not decided whether the Plaintiff or Defendants should win this case. Instead, both sides agreed to this Settlement. That way, they can avoid the uncertainty, risks, and expense of ongoing litigation, and Settlement Class Members will be eligible to get compensation now rather than years later—if ever. The Settlement Class Representative and attorneys for the Settlement Class Members, called Class Counsel, agree the Settlement is in the best interests of the Settlement Class Members. The Settlement is not an admission of wrongdoing by the Defendants.

### WHO'S INCLUDED IN THE SETTLEMENT?

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

You are part of the Settlement as a Settlement Class Member if you received a notification letter from Mason Tenders stating that your PII and/or PHI was or may have been compromised in the Data Incident.

Settlement Class Members will have been mailed notice of their eligibility. If you are still not sure whether you are included, you can contact the Settlement Administrator by calling 1-844-718-0382, by emailing [info@MTDCFundsSettlement.com](mailto:info@MTDCFundsSettlement.com), or by visiting [www.MTDCFundsSettlement.com](http://www.MTDCFundsSettlement.com).

This Settlement Class does not include: (i) all Class Members who timely and validly request exclusion from the Settlement Class; (ii) the Judge assigned to evaluate the fairness of this settlement; and (iii) 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 occurrence of the Data Incident or who pleads *nolo contendere* to any such charge.

### THE SETTLEMENT BENEFITS

## 6. What does the Settlement provide?

The Settlement will provide payments and credit monitoring services to people who submit valid claims.

**Reimbursement for Lost Time and Ordinary Out-of-Pocket Expenses:** If you spent time responding to the Data Incident, you may file a claim to receive compensation for Lost Time. If you incurred financial losses that are fairly traceable to the Data Incident, you may file a claim to receive reimbursement for Ordinary Out-of-Pocket Expenses.

- A. **Lost Time:** A claim for reimbursement may also include a claim for up to 3 hours of time spent in response to the Data Incident. Lost Time will be compensated at \$20.00/hour and requires a brief description of the action taken in response to the Data Incident and the time associated with those actions.
- B. **Ordinary Out-of-Pocket Expenses or Losses:** A claim for reimbursement may include, but are not limited to the following provided the expenses were incurred primarily as a result of the Data Incident: (1) unreimbursed costs, expenses, losses or charges incurred as a result of identity theft or identity fraud, falsified tax returns, or

other possible misuse of your personal information; (2) costs incurred on or after December 2, 2021 associated with purchasing or extending additional credit monitoring or identity theft protection services and/or accessing or freezing/unfreezing credit reports with any credit reporting agency; and (3) other miscellaneous expenses incurred relating to any Ordinary Out-of-Pocket Loss such as notary, fax, postage, copying, mileage and long-distance telephone charges. Claims for ordinary out-of-pocket expenses or losses are subject to a \$450.00 cap, which is aggregated with a claim for lost time.

**Reimbursement of Extraordinary Out-of-Pocket Expenses:** In addition to a claim for ordinary out-of-pocket expenses, you may file a claim for reimbursement of extraordinary out-of-pocket expenses. Expenses qualify for reimbursement under this category if: (1) the loss is an actual, documented, and unreimbursed monetary loss; (2) the loss was more likely than not caused by the Data Incident; (3) the loss occurred on or after December 2, 2021; (4) the loss is not already covered by one or more of the normal reimbursement categories provided under this Settlement Agreement; and (5) the Settlement Class Member has made reasonable efforts to avoid, or seek reimbursement for, the loss, including but not limited to exhaustion of the benefits made available to the Settlement Class Member under any applicable credit card, credit monitoring/identity protection or financial service(s). Claims for extraordinary out-of-pocket expense are subject to a \$2,500.00 cap.

**Credit Monitoring:** All Settlement Class Members are eligible to file a claim to receive one (1) year of identity theft protection and credit monitoring, which includes identity theft monitoring, alerts, three bureau credit monitoring, fraud resolution, and up to \$1 million identity theft insurance coverage for certain costs, identity restoration, and unauthorized electronic fund transfers.

**Confirmatory Discovery:** Defendants have also agreed to provide documents and information to Class Counsel showing that they have taken data security measures to remedy the issues that led to the Data Security Incident and has implemented other business practices to help ensure information security.

For complete details, please see the Settlement Agreement, whose terms control, available at [www.MTDCFundsSettlement.com](http://www.MTDCFundsSettlement.com).

## HOW TO GET BENEFITS

### 7. How do I make a Claim?

To qualify for a Settlement benefit, you must complete and submit a Claim Form.

Settlement Class Members who want to submit a Claim must fill out and submit a Claim Form online at [www.MTDCFundsSettlement.com](http://www.MTDCFundsSettlement.com) or by mail to the Settlement Administrator. Claim Forms are available through the Settlement website at [www.MTDCFundsSettlement.com](http://www.MTDCFundsSettlement.com) or by calling 1-844-718-0382.

**All Claim Forms must be submitted no later than October 3, 2023.**

## 8. When will I get my payment?

The hearing to consider the fairness of the Settlement is scheduled for October 11, 2023. If the Court approves the Settlement, eligible Settlement Class Members whose claims were approved by the Settlement Administrator will be sent payment after all appeals and other reviews, if any, are completed. Please be patient.

## THE LAWYERS REPRESENTING YOU

## 9. Do I have a lawyer in this case?

Yes, the Court has appointed Milberg Coleman Bryson Phillips Grossman, PLLC as “Class Counsel” to represent you and all class members. You will not be charged for these lawyers. You can ask your own lawyer to appear in Court for you at your own expense if you want someone other than Class Counsel to represent you.

## 10. How will the lawyers be paid?

To date, Class Counsel has not received any payment for their services in conducting this litigation on behalf of the Class and have not been paid for their out-of-pocket expenses. Class Counsel will ask the Court for an award of attorneys’ fees and costs and expenses which were incurred in connection with the Action, not to exceed \$175,000.00. Class Counsel will also request a service award of \$1,500.00 for Plaintiff.

The Court will determine the proper amount of any attorneys’ fees, costs, and expenses to award Class Counsel and the proper amount of any service awards to Plaintiffs.

Class Counsel will file their request for attorneys’ fees, costs, and expenses and Service Awards for Plaintiffs with the Court, which will also be posted on the Settlement Website, at [www.MTDCFundsSettlement.com](http://www.MTDCFundsSettlement.com).

Any attorneys’ fees, costs and expenses and service award approved by the Court will be paid separately from the benefits available to Settlement Class Members whose claims were approved.

## 11. What claims do I give up by participating in this Settlement?

If you do not exclude yourself from the Settlement, you will not be able to sue Mason Tenders about the Data Incident, and you will be bound by all decisions made by the Court in this case, the Settlement, and its included Release. This is true regardless of whether you submit a Claim Form. However, you may exclude yourself from the Settlement (*see* Question 14). If you exclude yourself from the Settlement, you will not be bound by any of the Released Claims, which are described in the Settlement Agreement at [www.MTDCFundsSettlement.com](http://www.MTDCFundsSettlement.com).

## 12. What happens if I do nothing at all?

If you do nothing, you will receive no benefits under the Settlement. You will be in the Settlement Class, and if the Court approves the Settlement, you will also be bound by all orders and judgments of the Court, the Settlement, and its included Release. You will be deemed to have participated in

the Settlement and will be subject to the provisions of Section 11 above. Unless you exclude yourself, you won't be able to file a lawsuit or be part of any other lawsuit against Mason Tenders for the claims or legal issues released in this Settlement.

### 13. What happens if I ask to be excluded?

If you exclude yourself from the Settlement, you will receive no benefits under the Settlement. However, you will not be in the Settlement Class and will not be legally bound by the Court's judgments related to the Settlement Class and Mason Tenders in this class action.

### 14. How do I ask to be excluded?

You can ask to be excluded from the Settlement. To do so, you must send a letter to the Settlement Administrator stating that you want to be excluded from the Settlement in *Vandermark, et al. v. Mason Tenders' District Council Welfare Fund, et al.*, Index No. 153365/2023. Your letter must include: (1) the name of the proceeding; (2) your full name and current address; (3) a statement that you wish to be excluded from the Settlement Class; and (4) your signature. You must mail your exclusion request, postmarked no later than **September 5, 2023**, to the following address:

Mason Tenders' District Council Data Incident Settlement Administrator  
P.O. Box 3553  
Baton Rouge, LA 70821

You cannot exclude yourself by phone or email. Any individual who wants to be excluded from the Settlement must submit his or her own exclusion request. No group opt-outs shall be permitted.

### 15. If I don't exclude myself, can I sue Mason Tenders for the same thing later?

No. Unless you exclude yourself, you give up any right to sue Mason Tenders for the claims or legal issues released in this Settlement, even if you do nothing.

### 16. If I exclude myself, can I get anything from this Settlement?

No. If you exclude yourself, do not submit a Claim Form to ask for any benefits.

### 17. How do I object to the Settlement?

If you do not exclude yourself from the Settlement Class, you can object to the Settlement if you do not agree with any part of it. You can give reasons why you think the Court should deny approval by filing an objection. To object, you must mail a written objection to the Settlement Administrator stating that you object to the Settlement in *Vandermark, et al. v. Mason Tenders' District Council Welfare Fund, et al.*, Index No. 153365/2023. Your objection must be filed no later than **September 5, 2023**.

The objection must be in writing and be personally signed by you. The objection must include: (i) the name of the proceedings; (ii) your full name, current mailing address, and telephone number; (iii) a statement that states with specificity the grounds for the objection, as well as any documents supporting the objection; (iv) a statement as to whether the objection applies only to the objector,

to a specific subset of the class, or to the entire class; (v) the identity of any attorneys representing the objector; (vi) a statement regarding whether the Settlement Class Member (or his/her attorney) intends to appear and/or wishes to be heard at the Final Approval Hearing; (vii) a list of all other matters in which the objecting Settlement Class Member and/or his/her attorney has lodged an objection to a class action settlement; and (viii) the signature of the Settlement Class Member or the Settlement Class Member's attorney.

You must mail the objection to the Settlement Administrator at the address listed below, postmarked no later than September 5, 2023:

Mason Tenders' District Council Data Incident Settlement Administrator  
P.O. Box 3553  
Baton Rouge, LA 70821

## 18. What's the difference between objecting and excluding myself from the Settlement?

Objecting simply means telling the Court that you don't like something about the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself from the Settlement Class is telling the Court that you don't want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

### THE COURT'S FAIRNESS HEARING

## 19. When and where will the Court hold a hearing on the fairness of the Settlement?

The Court will hold the Final Approval Hearing, at 2:00 p.m. on October 11, 2023, at the Courthouse located at 60 Centre St, New York, NY 10007. The purpose of the hearing is for the Court to determine whether the Settlement is fair, reasonable, adequate, and in the best interests of the Settlement Class. At the hearing, the Court will hear any objections and arguments concerning the fairness of the proposed Settlement, including those related to the amount requested by Class Counsel for attorneys' fees, costs, and expenses and the service awards to Plaintiffs.

The location, date and time of the Final Approval Hearing are subject to change by Court order. Any changes will be posted at the Settlement Website, [www.MTDCFundsSettlement.com](http://www.MTDCFundsSettlement.com), or through the Court's publicly available docket. You should check the Settlement Website to confirm the date and time have not been changed.

## 20. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. But you are welcome to attend the hearing at your own expense. If you send an objection, you don't have to come to Court to talk about it. If your written objection was filed or mailed on time and meets the other criteria described in the Settlement, the Court will consider it. However, you may appear on your behalf or pay a lawyer to attend on your behalf to assert your objection if you would like.

**21. May I speak at the hearing?**

Yes. If you do not exclude yourself from the Settlement Class, you (or your attorney) may appear and speak at the Final Approval Hearing concerning any part of the proposed Settlement.

GETTING MORE INFORMATION

**22. Where can I get additional information?**

This Notice summarizes the proposed Settlement. More details are in the Settlement Agreement, which is available at [www.MTDCFundsSettlement.com](http://www.MTDCFundsSettlement.com) or by writing to P.O. Box 3553, Baton Rouge, LA 70821.

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

Go to [www.MTDCFundsSettlement.com](http://www.MTDCFundsSettlement.com), call 1-844-718-0382, email [info@MTDCFundsSettlement.com](mailto:info@MTDCFundsSettlement.com) or write to P.O. Box 3553, Baton Rouge, LA 70821.

**PLEASE DO NOT CALL THE COURT, THE CLERK OF THE COURT, THE JUDGE, OR THE DEFENDANT WITH QUESTIONS ABOUT THE SETTLEMENT OR CLAIMS PROCESS.**