

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

A class action settlement may affect your rights if you paid Arvest Central Mortgage Co. a fee to make a residential loan payment by telephone, including through the use of the telephonic automated “IVR” (interactive voice response) system, or the internet between January 1, 2017 and December 31, 2020.

THIS NOTICE COULD AFFECT YOUR RIGHTS—PLEASE READ IT CAREFULLY.

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

The United States District Court for the Northern District of California (the “Court”) authorized this Notice. This Notice is a summary of a proposed Settlement of three class action lawsuits titled *Lembeck, et al. v. Arvest Central Mortgage Co.*, Case No. 4:20-cv-03277 (N.D. Cal.), *Lange v. Arvest Central Mortgage Co.*, Case No. 4:20-cv-293-LPR (E.D. Ark.), and *Miller v. Arvest Central Mortgage Co.*, Case No. 20-010342-CA-01 (Fla. Cir. Ct., Miami-Dade Cty.). The three cases have been consolidated for settlement before the U.S. District Court for the Northern District of California. Robert Lange, Valerie Lembeck, and Andrew Miller (“Plaintiffs”) sued Arvest Central Mortgage Co. (“Arvest”), alleging that Arvest charged borrowers fees to make mortgage payments online or over the phone, including through the use of the telephonic automated “IVR” (interactive voice response) system (“Pay-to-Pay Fees”). The Action asserts that Arvest’s practice of charging such fees, among other things, violated the Texas Finance Code §§ 392, *et seq.*, the Rosenthal Fair Debt Practices Act, the Unfair Competition Law, the Florida Consumer Collection Practices Act, and the Florida Deceptive and Unfair Trade Practices Act, and breached the terms of the borrowers’ loan agreements. Arvest denies the allegations asserted in the Actions. The Court has not decided who is right.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
Do Nothing And Receive A Payment	If you are entitled under the Settlement to payment, you do not have to do anything to receive it. If the Court approves the Settlement and it becomes final and effective, and you remain in the Settlement Class (<i>i.e.</i> , you do nothing and do not otherwise exclude yourself from the Settlement), you will automatically receive a payment and give up your right to bring your own lawsuit against Arvest about the claims in this case' and remove duplicative.
Exclude Yourself From The Settlement Deadline: July 6, 2021	Instead of doing nothing, you may ask to be excluded from the lawsuit. If you do so, you will receive no benefit from the Settlement, but you retain your right to sue on your own.
Object Deadline: July 6, 2021	You may object to the terms of the Settlement Agreement and have your objections heard at the August 12, 2021 Final Fairness Hearing.

This Notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Settlement Agreement available at www.PaytoPayFeeSettlement.com, by contacting Class Counsel at the addresses listed in Part 9 below, by accessing the Court docket in this case, for a fee, through the Court’s Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, San Francisco Courthouse, 450 Golden Gate Avenue, San Francisco, CA 94102, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK’S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT.

The following is a summary of the Settlement and of your rights.

1. Why is there a Notice?

A Court authorized this Notice because you 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 lawsuit, the Settlement and your legal rights.

Judge Vince Chhabria, of the U.S. District Court for the Northern District of California, is overseeing this case. The case is known as *Lembeck, et al. v. Arvest Central Mortgage Co.*, Case No. 4:20-cv-03277 (N.D. Cal.). The people who sued are called the “Plaintiffs.” The Defendant is Arvest Central Mortgage Co.

2. What is this lawsuit about?

The lawsuit claims that Arvest charged borrowers fees to make mortgage payments online, or over the phone, including through the use of the telephonic automated “IVR” (interactive voice response) system (“Pay-to-Pay Fees”). The Action asserts that Arvest’s practice of charging such fees, among other things, violated the Texas Finance Code §§ 392, *et seq.*, the Rosenthal Fair Debt Practices Act, the Unfair Competition Law, the Florida Consumer Collection Practices Act, and the Florida Deceptive and Unfair Trade Practices Act, and breached the terms of the borrowers’ loan agreements. Arvest denies the allegations asserted in the Actions. The Court has not decided who is right.

The Amended Complaint in this Action is posted on www.PaytoPayFeeSettlement.com and contains all of the allegations and claims asserted against Arvest.

3. Why is this a class action?

In a class action, one or more people, called Class Representatives (in this one, mortgage borrowers whose mortgages were serviced by Arvest and who paid Pay-to-Pay Fees), sue on behalf of people who have similar claims.

All of the people who have claims similar to the Class Representatives are members of the Settlement Class, except for those who exclude themselves from the Class.

4. Who is a Class Member?

The Court has determined that every person who fits the following description is a Class Member:

All persons who (1) were borrowers on residential mortgage loans on properties located in Florida, Texas, or California to which Arvest acquired servicing rights, and (2) paid a fee to Arvest for making a loan payment by telephone, including through the use of the telephonic automated “IVR” (interactive voice response) system, or the internet, between January 1, 2017 and December 31, 2020.

Arvest’s records reflect that you may be a Class Member.

5. Why is there a Settlement?

Both sides agreed to the Settlement. By agreeing to the Settlement, the Parties avoid the costs and uncertainty of a trial, and Settlement Class Members receive the benefits described in this Notice. The Class Representatives and their attorneys think the Settlement is best for everyone who is affected.

6. What are the terms of the proposed Settlement?

The complete terms of the proposed Settlement are set forth in a formal Settlement Agreement (the “Agreement”) which is on file with the Court, and which is also available on the settlement website at: www.PaytoPayFeeSettlement.com. This Notice is only a summary of the Settlement, and in case of any conflict between this Notice and the Agreement, the terms of the Agreement will control.

In the proposed Settlement, Arvest has agreed to create a \$1,474,314 Common Fund. All Administrative Costs, any Court-awarded attorneys’ fees and expenses to Class Counsel, and any Service Awards to the Class Representatives will be paid out of the Gross Settlement Fund first. The remaining balance of the settlement fund (the “Net Settlement Fund”) will be distributed among the Class Representatives and all Class Members who are not excluded from the Class, as set forth below (the “Settlement Class Members”). If the Court awards all Administrative Costs, attorneys’ fees and expenses, and Service Awards requested by the Parties, the Net Settlement Fund will be approximately \$872,926.

Also, as part of the Settlement, Arvest has agreed to stop charging fees for payments made online or by telephone, including through the use of the telephonic automated “IVR” (interactive voice response) system, in California, Florida, and Texas for three years.

Allocations of the Net Settlement Fund will be calculated on a borrower-by-borrower basis, such that each Settlement Class Member will receive *pro rata* monetary benefits based on the amount of Pay-to-Pay Fees each Settlement Class Member paid during the Class Period. Settlement Class Members who receive a Settlement Payment are solely responsible for distributing or allocating their payment between or among all co-account holders. By way of illustration, if you are a borrower on a loan that paid one percent of the total Pay-to-Pay Fees collected by Arvest during the Class Period, you will be allocated one percent of the Net Settlement Fund.

Attorneys' Fees and Expenses, and Service Awards. Class Counsel will ask the Court to award attorneys' fees in an amount not to exceed one-third (33.33%) of the Settlement Fund, or \$491,388, plus litigation costs and expenses. Class Counsel will also request Court approval of Service Awards to the Class Representatives in the amount of \$5,000 each. Class Counsel will file that request, along with all supporting documents, at least 21 days prior to the deadline to opt out from or object to the Settlement. The Fee and Service Award Application and all supporting papers will be available for your review on the settlement website at www.PaytoPayFeeSettlement.com. The Court will determine the appropriate amount of the attorneys' fees and awards to be paid. The Settlement is not conditioned upon approval of any of the attorneys' fees, costs, or service award amounts.

You are not required to make any payments to Class Counsel in this action.

7. How Can I Get the Relief?

As long as you do not exclude yourself from the Settlement, you will automatically receive cash benefits from the Settlement, and you do not need to take further action.

Payments will be made by check mailed to Settlement Class Members, or, at the Settlement Class Member's election, by a digital method. Checks will be valid for 90 days. Settlement Class Members may request that the Settlement Administrator reissue a check for one additional 90-day period for good cause shown. If there is any amount in the Settlement Fund that remains following the distribution of checks to Settlement Class Members as a result of checks being returned undeliverable or which are not cashed within 90 days, those funds will be distributed on a *pro rata* basis to Settlement Class Members who cashed their checks. Within 180 days after the Settlement Administrator mails the first Settlement Class Member Payments, the Settlement Administrator will decide whether Residual Funds should be distributed to the Settlement Class Members through a secondary distribution. If the amount of the remaining funds is so minimal that a secondary distribution would be impracticable or infeasible, then, subject to the Court's approval, the remaining funds shall be distributed to NeighborWorks America, a 501(c)(3) charitable organization that works with nonprofits around the country on housing issues.

8. When Will I Get the Relief?

As described below, the Court will hold a Final Fairness Hearing on August 12, 2021 to decide whether to grant final approval of the Settlement. The Court must finally approve the Settlement before any relief will be distributed, and it will do so only after finding that the Settlement is fair, reasonable, and adequate. In addition, any final approval order the Court may enter may be subject to appeal. If there are any such appeals, resolving them takes time. Payments to Settlement Class Members be made only made after the time for any appeals expires. **Please be patient.**

9. Who Represents Me?

The Court has appointed Hassan A. Zavareei and Kristen G. Simplicio of Tycko & Zavareei LLP and James L. Kauffman of Bailey & Glasser LLP to represent you and other Settlement Class Member in this Action and for purposes of this Settlement, and for no other purpose. These attorneys are called "Class Counsel." You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your own expense.

You may contact Class Counsel at:

James Kauffman
Bailey & Glasser LLP
1055 Thomas Jefferson Street NW
Suite 540
Washington, DC 20007

Hassan Zavareei
Kristen G. Simplicio
Tycko & Zavareei LLP
1828 L Street NW
Suite 1000
Washington, DC 20036

10. How will the lawyers be paid?

Class Counsel will ask the Court to award attorneys' fees in an amount not to exceed one-third (33.33%) of the Settlement Fund, or \$491,388, plus litigation costs and expenses. Class Counsel will also request Court approval of Service Awards to the Class Representatives in the amount of \$5,000 each. Class Counsel will file that request, along with all supporting documents, at least 21 days prior to the deadline to opt out from or object to the Settlement. The Fee and Service Award Application and all supporting papers will be available for your review on the settlement website at www.PaytoPayFeeSettlement.com. The Court will determine the appropriate amount of the attorneys' fees and awards to be paid. The Settlement is not conditioned upon approval of any of the attorneys' fees, costs, or service award amounts.

11. How do I exclude myself from the Settlement?

If you do not want benefits from the Settlement and you want to keep the right to sue or continue to sue Arvest on your own about the legal issues in this case, then you must take steps to exclude yourself from the Settlement. This is called "opting out" of the Settlement Class.

If you choose to opt out of the Settlement, you must send a written statement to the Settlement Administrator that includes the name, address, phone number and signature of the borrower(s) seeking exclusion, as well as language clearly indicating a request for exclusion, such as "I wish to be excluded from the Settlement in *Lembeck v. Arvest Central Mortgage Co.*" If there are co-borrowers on the loan, all co-borrowers must sign the request for exclusion.

You must mail your request for exclusion postmarked by no later than July 6, 2021 to:

Arvest Central Mortgage Co. Settlement Administrator
P.O. Box 43501
Providence, RI 02940-3501

If you are a co-borrower or joint borrower on a loan covered by the Settlement and you opt out of the Settlement, all co-borrowers and/or joint borrowers on the loan must sign the request for exclusion and will also be excluded from the Settlement. Similarly, if you are a co-borrower or joint borrower on a loan covered by the Settlement and another borrower on that loan is a Settlement Class Member who opts out of the Settlement, you must also sign the opt-out and will also be excluded from the Settlement. If you do not opt out, and no co-borrower or joint borrower on your loan opts out, you (and your co-borrower(s) and/or joint borrower(s), if any) will be bound by this Settlement.

12. If I do not exclude myself, can I sue Arvest for the same thing later?

No. Unless you exclude yourself, you give up the right to sue Arvest for the claims that the Settlement resolves. You must exclude yourself from the Settlement Class in order to try to pursue your own lawsuit.

13. If I exclude myself, will I receive a payment?

No. You will not receive a payment if you exclude yourself from the Settlement.

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

If you are a Settlement Class Member and have not requested to be excluded from the Settlement Class, you can object to any part of the Settlement, the Settlement as a whole, Class Counsel's requests for fees and expenses, and/or Class Counsel's request for Service Awards for the Class Representatives.

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.

The Court will accept objections that substantially comply with the objection requirements set forth below, and the submission of the following may be excused upon a showing of good cause. In particular, your objection must include the following:

- Your name, address, email address (if any), and phone number;
- The case caption, *Lembeck, et al. v. Arvest Central Mortgage Co.*, Case No. 4:20-cv-03277 (N.D. Cal.);
- The specific legal and factual bases for your objection;
- A list of all cases in which you have objected to a class action settlement, including case name, court, and docket number;
- If you are represented by counsel, a list of all cases in which your counsel has represented an objector in objecting to a class action settlement, including the case name, court, and docket number;
- A statement indicating whether you and/or your counsel intend to appear at the Final Fairness Hearing;
- A list of witnesses, if any, that you intend to call;
- Whether the objection relates only to you, to a subset of the Settlement Class, or to the entire Settlement Class; and
- Your signature.

You must also comply with Northern District of California Local Rule 3-15 and promptly file a Certification of Interested Entities or Persons on the docket.

Any Settlement Class Member who has not submitted a timely request for exclusion may appear at the Final Fairness Hearing either in person at the online hearing held using Zoom video conferencing software or through an attorney. However, if the Settlement Class Member intends to appear through counsel, the Settlement Class Member must have submitted a written objection pursuant to this section. Any lawyer who intends to appear at the Final Fairness Hearing also must enter a written Notice of Appearance of Counsel with the Clerk of the Court no later than the Response Deadline. Any Settlement Class Member who intends to request the Court to allow him or her to call witnesses at the Final Fairness Hearing must make such a request in a written brief, which contains a list of such witnesses and a summary of their requested testimony. These written notice requirements may be excused upon a showing of good cause.

Your objection must be postmarked no later than July 6, 2021 and must be mailed to the Court c/o the Clerk of the Court for the United States District Court for the Northern District of California, San Francisco Courthouse, 450 Golden Gate Avenue, San Francisco, CA 94102 or filed in person on or before July 6, 2021 at any location of the United States District Court for the Northern District of California.

15. What am I agreeing to by remaining in the Class in this case?

If the Settlement receives final approval from the Court, the Settlement will be legally binding on all Settlement Class Members, including Settlement Class Members who object. If you, or someone acting on your behalf, are currently litigating claims against Arvest or other released parties that are the same as or similar to those addressed here, you will be barred from pursuing the claims released by the Settlement unless you validly opt out, as described above. Under the terms of the release, you will not be able to sue for any claim relating to Pay-to-Pay Fees for mortgage payments made over the internet, and/or by phone, including those made using the telephonic automated “IVR” (interactive voice response) system, between January 1, 2017 and December 31, 2020.

The full terms of the release, which will bind all Settlement Class Members as to certain claims against Arvest and certain affiliates and related entities (“Released Parties”), are set forth in the Settlement Agreement, which is on file with the Court, and which is available on the settlement website at: www.PaytoPayFeeSettlement.com. Unless you exclude yourself, you will be a Settlement Class Member, and that means that any claims you have regarding Pay-to-Pay Fees you paid to Arvest will be fully and completely resolved, and that you cannot sue, continue to sue, or be part of any other lawsuit against Arvest about Arvest’s collection of Pay-to-Pay Fees. It also means that the Court’s orders approving the Settlement and the judgment in this case will apply to you and legally bind you.

If you want to keep the right to sue or continue to sue Arvest, on your own, about Arvest’s collection of Pay-to-Pay Fees, you must exclude yourself from the Settlement in this case. If you exclude yourself, as set forth above, you will not receive any of the benefits of the Settlement, as described above.

16. What Happens Next?

The Court will hold a “Final Fairness Hearing” on August 12, 2021, at 2:00 p.m. using Zoom video conferencing software, to hear any objections and to consider whether to give final approval to the Settlement. Further information about the Zoom video conference, including the public URL for the video conference, will be available on the Court’s website at

www.cand.uscourts.gov/judges/chhabria-vince-vc/. The Court will hear objections at the hearing only from those who timely object to the Settlement, as described below. You may participate in the Final Fairness Hearing with or without an attorney, but if you choose to be represented by an attorney, you must do so at your own expense.

**YOU DO NOT HAVE TO APPEAR AT THE HEARING
TO RECEIVE THE BENEFITS OF THE SETTLEMENT.**

You may ask the Court for permission to speak at the Final Fairness Hearing. To do so, you must send a letter stating that you intend to appear and wish to be heard. Your Notice of Intention to Appear must include the following:

- Your name, address and telephone number;
- A statement that this is your “Notice of Intention to Appear” at the Final Fairness Hearing for the Settlement in *Lembeck, et al. v. Arvest Central Mortgage Co.*, Case No. 4:20-cv-03277 (N.D. Cal.);
- The reasons you want to be heard;
- Copies of any papers, exhibits, or other evidence or information that is to be presented to the Court at the Final Fairness Hearing; and
- Your signature.

You must submit your Notice of Intention to Appear no later than **July 6, 2021**, to:

James Kauffman
Bailey & Glasser LLP
1055 Thomas Jefferson Street NW
Suite 540
Washington, DC 20007

Hassan Zavareei
Kristen G. Simplicio
Tycko & Zavareei LLP
1828 L Street NW
Suite 1000
Washington, DC 20036

Arvest Central Mortgage Co.
Settlement Administrator
P.O. Box 43501
Providence, RI 02940-3501

More Information Is Available

This Notice is only a summary of the Settlement and the Agreement. More details can be found in the Settlement Agreement. You can obtain a copy of the Settlement Agreement, and additional court documents related to the Settlement, at www.PaytoPayFeeSettlement.com.

If you have other questions regarding the Settlement, you may also contact Class Counsel at:

James Kauffman, Bailey & Glasser LLP, 1055 Thomas Jefferson Street NW, Suite 540, Washington, DC 20007, (202) 463-2105, jkauffman@baileyglasser.com.

Hassan Zavareei and Kristen G. Simplicio, Tycko & Zavareei LLP, 1828 L Street NW, Suite 1000, Washington, DC 20036, (202) 973-0900, havareei@tzlegal.com; ksimplicio@tzlegal.com.

You may also contact the Settlement Administrator at:

Arvest Central Mortgage Co. Settlement Administrator
P.O. Box 43501
Providence, RI 02940-3501

You may also review the Court’s file during regular court hours at:

United States District Court for the Northern District of
San Francisco Courthouse
450 Golden Gate Avenue
San Francisco, CA 94102

PLEASE DO NOT TELEPHONE THE COURT, THE JUDGE, OR THE CLERK OF THE COURT.