

Rhaney v. Del Taco LLC

San Diego County Superior Court No. 37-2015-00019772-CU-BT-CTL

What is contained in this notice?

If you possess or have possessed a Del Taco gift card purchased pursuant to a transaction in the State of California, you may be part of a class action settlement. This notice package explains the lawsuit, the settlement, your legal rights, and the benefits provided to the class via this settlement.

You have a right to know about a proposed settlement of a 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 any objections and appeals are resolved, the class will receive the benefits the settlement provides.

The Court in charge of the case is located in the San Diego Superior Court. This class action lawsuit is titled *Damien Rhaney v. Del Taco LLC*. Plaintiff Damien Rhaney filed the suit and Defendant is Del Taco LLC.

What is this about?

The settlement will resolve a lawsuit claiming Defendant violated California law by refusing to redeem Del Taco's gift cards for their cash value upon customer request when the remaining value on the card was less than \$10. Defendant denies any wrongdoing and contends that it has a policy in place consistent with California law. Defendant concluded it is in its best interests to settle and resolve this lawsuit to avoid additional expense and continued interference with its ongoing business operations. The Complaint will be posted on the gift card section of Defendant's website.

Why is this a class action?

In a class action, the Plaintiff (called a Class Representative), sues on behalf of people who have similar claims. All these people are known as a Class or Class Members. One court resolves the issues for all Class Members, except for those persons who exclude themselves from the Class. The Honorable Judith F. Hayes is the Judge overseeing this class action.

Why is there a settlement?

The Court did not decide in favor of the Plaintiff or the Defendant. There was no trial and the Court did not decide which side was right. Instead, both sides agreed to the settlement after vigorous pre-trial negotiations. By reaching a settlement agreement (which will be posted on the gift card section of Defendant's website), the parties avoid the cost of continued litigation, a trial, and the people affected benefit from class resolution. The Class Representative and the attorneys think the settlement is best for all Class Members.

How do I know if I am part of the settlement?

Judge Hayes decided that everyone who fits this description is a Class Member: All purchasers and/or recipients of any Del Taco gift card between June 12, 2011 and February 24, 2017 who requested a refund of any Del Taco gift card that had at the time of the requested refund a cash value of less than ten dollars (\$10.00) from a Del Taco store located within the State of California.

Are there exceptions to being included?

Excluded from the class are Defendant, its agents, any entity in which any Defendant has or had a controlling interest, its franchisees, and its predecessors in interest or assigns.

What does the settlement provide?

Defendant agrees to provide the following benefits for Class members: (1) New educational training for current and future managers currently working in California Del Taco restaurants owned and operated by Del Taco LLC regarding Defendant's policy of redeeming and the processes regarding how to redeem Del Taco-issued gift cards at California Del Taco restaurants owned and operated by Del Taco LLC for cash upon a cardholder's request when the valid gift card has a cash value of less than \$10.00 at the time the redemption request is made; (2) An update to Defendant's "new hires" training manual to highlight the policy of redeeming and the processes regarding how to redeem Del Taco-issued gift cards in California Del Taco restaurants owned and operated by Del Taco LLC for cash upon a cardholder's request when the gift card has a cash value of less than \$10.00 at the time the redemption request is made; (3) for at least one year after the Final Settlement Date (as defined in the Parties' Settlement Agreement), notice will be posted in the "employees only" area of California Del Taco restaurants owned and operated by Del Taco LLC highlighting Defendant's policy of redeeming Del Taco-issued gift cards in California for cash upon a cardholder's request when the gift card has a cash value of less than \$10.00 at the time the redemption request is made; (4) for at least one year after the Final Settlement Date (as defined in the Parties' Settlement Agreement), notice will be posted on the gift card section of Defendant's website reminding consumers that Del Taco-issued gift cards are redeemable for cash at Del Taco restaurants located in California when the card has a cash value of less than \$10.00 at the time a redemption request is made; and (5) for at least one year after the Final Settlement Date (as defined in the Parties' Settlement Agreement), a notice or a reminder will be posted on the employee side of each front-of-the-house cash register at California Del Taco restaurants owned and operated by Del Taco LLC to remind employees that Del Taco-issued gift cards are redeemable for cash at Del Taco restaurants located in California when the card has a cash value of less than \$10.00 at the time the redemption request is made.

Subject to Court final approval of the Parties' Settlement (as defined and detailed in the Parties' Settlement Agreement), Plaintiff will also receive an incentive award in the total and finite sum of \$2,500.00 and Class Counsel will apply for, and Defendant shall not oppose, an award of up to and including \$50,000.00 in full satisfaction of Plaintiff's and the Class' claims for attorneys' fees, costs, and expenses. These payments will not impact or reduce the class benefits as previously described herein.

What am I giving up to stay in the Class?

Unless you exclude yourself, you are staying in the Class, and that means that you can't sue, continue to sue, or be part of any other lawsuit against the Defendant about the legal claims and issues this settlement resolves. It also means that all of the Court's orders will apply to you and legally bind you.

If you don't want to be a Class Member and want to preserve the right to sue or continue to sue Defendant on your own about the legal claims and issues this settlement resolves, then you must take steps to exclude yourself from the settlement. This is sometimes referred to as "opting out" of the Class.

How do I exclude myself from settlement?

To exclude yourself from the settlement, you must send a signed letter to Class Counsel and Defendant's Counsel which is postmarked no later than ninety (90) calendar days after entry of the Preliminary Approval Order. The letter must include: (1) the name of the case (i.e. *Damien Rhaney v. Del Taco LLC* litigation); (2) your full name; (3) your valid and current address; (4) your valid and current telephone number; and (5) a statement that you are a Class Member and wish to be excluded from the Class. Your letter must be properly sent to both Class Counsel and Defendant's Counsel at the addresses listed below:

CLASS COUNSEL

Robert B. Hancock, Esq.
PACIFIC JUSTICE CENTER
50 California Street, Suite 1500
San Francisco, CA 94111

Gary D. Garcia, Esq.
THE LAW OFFICES OF GARY D. GARCIA
333 Midway Drive, Suite 208
San Diego, CA 92110

DEFENSE COUNSEL

Ryan M. McNamara
Call & Jensen, APC
610 Newport Center Drive, Suite 700
Newport Beach, CA 92660

If you ask to be excluded (in the manner detailed herein), you will not be a Class Member and cannot object to the settlement. You will not be legally bound by anything that happens in this lawsuit or its resolution. You may be able to sue (or continue to sue) the Defendant in the future.

If I don't exclude myself, can I sue Defendant for the same thing later?

No. Unless you exclude yourself, you give up any right to sue Defendant for the claims and issues that this settlement resolves. If you have a pending lawsuit, speak to your lawyer in that case immediately. You must properly exclude yourself from this Class to continue your own lawsuit. Remember, the exclusion deadline is no later than ninety (90) calendar days after entry of the Preliminary Approval Order.

Do I have a lawyer in this case?

Yes. Two law firms, the Pacific Justice Center and the Law Office of Gary D. Garcia, represent you and other Class Members in this case. The contact information for these law firms is:

PACIFIC JUSTICE CENTER

Robert B. Hancock, Esq.

50 California Street, Suite 1500
San Francisco, California 94111
415-310-1940

LAW OFFICE OF GARY D. GARCIA

Gary D. Garcia, Esq.

333 Midway Drive, Suite 208
San Diego, California 92110
619-795-6580

These lawyers are called Class Counsel. You will not be charged for the assistance provided by these lawyers. If you want to be represented by your own lawyer, you may hire one of your own selection at your own cost and expense.

How will the lawyers be paid?

Pursuant to the terms of the Settlement Agreement, Class Counsel will ask the Court to approve payment of up to and no more than \$50,000 to them for all of their attorneys' fees, costs, and expenses. The attorneys' fees would pay Class Counsel for investigating the facts, litigating the case, negotiating the settlement, and their efforts in closing the case. The Court may award less than this amount but Defendant has agreed to not oppose an award of attorneys' fees up to \$50,000.

How do I tell the Court that I don't like the settlement?

If you're 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. You may object to the proposed settlement in writing. You may also appear at the Final Approval Hearing, either in person or through an attorney at your own cost and expense, provided you properly notify the Court of your intent to do so. All written objections, supporting papers and/or notices of intent to appear at the Final Approval Hearing must clearly identify the case name and number: Damien Rhaney v. Del Taco, LLC, Case No. 37-2015-00019772-CU-BT-CTL, and be submitted by mail to these three locations:

COURT

Clerk of the Court
Superior Court of California, County of San Diego
Central - Hall of Justice
330 West Broadway San Diego, CA 92101

CLASS COUNSEL

Robert B. Hancock, Esq.
PACIFIC JUSTICE CENTER
50 California Street, Suite 1500
San Francisco, CA 94111

Gary D. Garcia, Esq.
333 Midway Drive, Suite 208
San Diego, California 92110
619-795-6580

DEFENSE COUNSEL

Ryan M. McNamara
Call & Jensen, APC
610 Newport Center Drive, Suite 700
Newport Beach, CA 92660

You may also file your documents in person at the Superior Court, County of San Diego Central - Hall of Justice, 330 West Broadway San Diego, CA 92101. You must postmark or file your letter of objection no later than ninety (90) calendar days after entry of the Preliminary Approval Order.

What's the difference between objecting and excluding?

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

When and where will the Court decide whether to approve the settlement?

The Court will hold a Fairness Hearing on **June 30, 2017** before Judge Judith F. Hayes in Dept. C-68 of the Superior Court of California, County of San Diego, 330 West Broadway San Diego, CA 92101. 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 Representatives are proper. If there are objections, the Court will consider them. Judge Hayes will listen to people who have properly 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.

Do I have to come to the hearing?

No. Class Counsel will answer questions that Judge Hayes may have. If you send an objection, you don't have to come to Court to talk about it. As long as you have properly mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary for you to do so.

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 should also send a letter as described above. You cannot speak at the hearing if you excluded yourself.

What happens if I do nothing at all?

If you do nothing, you'll still receive all benefits from this settlement. But, unless you exclude yourself, you won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendant about the legal claims and issues this settlement resolves.

How do I get more information?

The notice summarizes the proposed settlement. More details—including the Settlement Agreement, the Amended Complaint and Answer, plus other information to help you determine whether you are a Class Member and whether you are eligible for payment—are available on this website. You may also speak to one of the attorneys working on this class action by calling Mr. Gary D. Garcia at 619-795-6580, by calling Mr. Robert B. Hancock at 415-310-1940, or by emailing Class Counsel at the following addresses: gdgarcia619@gmail.com or rbh@lawyer.com.