

**If you applied for a food service operations position with Levy at the Barclays Center sometime between August 4, 2014 through August 15, 2018, but you were not hired based on a criminal background check, you are eligible for \$250.00 and could receive hiring consideration or an enhanced payment from this Settlement.**

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

An applicant for a food service operations position at the Barclays Center sued Levy Premium Foodservice Limited Partnership (“Levy” or “Defendant”), for allegedly using an unreliable criminal background check process.

- Under this Settlement, if you qualify, you could be eligible for \$250.00; or a job with Levy at the Barclays Center and an award of \$1,950.00; or an award of \$2,350.00. However, because you had a pending criminal charge at the time of your application for employment, the parties are unable to determine which award you may be entitled to, and require more information from you.
- Visit the Settlement Website at [www.levysettlement.com](http://www.levysettlement.com) for additional details about the Settlement (your Notice ID and PIN for filing a claim through the Settlement Website are both printed on your Claim Form). You may also get additional information by contacting the Settlement Administrator at the address, e-mail address, or phone number identified in Section 5 of this Notice.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>	
<b>SUBMIT A CLAIM FORM</b>	You must submit a Claim Form by <b><u>August 9, 2019</u></b> and authorize a background check to be considered for hire and the enhanced payment of \$1,950.00; or the enhanced payment of \$2,350.00 under the Settlement. Note: Claims can be filed electronically at <a href="http://www.levysettlement.com">www.levysettlement.com</a> .
<b>DO NOTHING</b>	If you do not submit a Claim Form, you get <b><u>no</u></b> hiring consideration and will only receive a payment of \$250.00. You also give up your right to sue Defendant on these claims.
<b>EXCLUDE YOURSELF</b>	If you wish to exclude yourself (“opt out”) from the Settlement you must follow the directions outlined in Section 10 below. If you exclude yourself, you will not receive any hiring consideration or payment and you cannot object to the Settlement. <b><u>Your exclusion request must be e-mailed or postmarked no later than July 25, 2019.</u></b>
<b>OBJECT</b>	You may write to the Court about why you believe the Settlement is not fair or reasonable. You must object in writing in order to appear at the Fairness Hearing to speak to the Court about the fairness of the Settlement. <b><u>You must send a written objection e-mailed or postmarked no later than July 25, 2019.</u></b>

These rights and options – **and deadlines** – are explained in this notice.

The Court in charge of this case still has to decide whether to give final approval to the Settlement. Class Member relief in the form of hiring consideration and/or payments will be made if the Court approves the Settlement and after appeals, if any, are resolved. Please be patient.

## **BASIC INFORMATION**

### **1. Why did I receive this notice and what is this lawsuit about?**

This lawsuit claims that Levy, which hired applicants for certain food service operations positions at the Barclays Center, violated state and federal laws governing the use of criminal background check procedures to screen applicants seeking positions for employment.

Levy’s records show that you applied for a food service operations position with Levy at the Barclays Center sometime between August 4, 2014 and August 15, 2018, were subjected to a criminal background check, and were ultimately not hired based on a pending criminal charge or because of administrative error.

The Court ordered that you be sent this Notice because the proposed Settlement may apply to you and you have a right to know about it and all your options before the Court decides whether to approve the Settlement.

## 2. Why is there a settlement?

The Court did not decide in favor of Plaintiff or Defendant. Both sides believe they would have prevailed, but there was no ruling in favor of either party. Instead, both sides agreed to a settlement. That way, they avoid the costs, delays, and uncertainties associated with a trial, and the people affected will get job opportunities and/or compensation. Plaintiff and Class Counsel think the Settlement is the best result for all Class Members and that the terms and conditions of the Settlement are fair, reasonable, and adequate.

## WHO IS IN THE SETTLEMENT

### 3. How do I know if I am part of the Settlement?

You are automatically a member of the Class if you applied for employment with Levy at the Barclays Center for a food service operations position, were otherwise eligible for employment (e.g. you did not fail a pre-employment drug test or have an invalid Social Security number that would have precluded Levy from procuring a background report on you), were identified by Levy as having a background report showing a criminal history through a consumer report, but were not hired because of a pending criminal charge or administrative error sometime between August 4, 2014 and August 15, 2018. If you are not sure about whether you qualify as a Class Member, you can contact the Settlement Administrator at the address, e-mail address, or phone number identified in Section 5 of this Notice.

## THE SETTLEMENT BENEFITS – WHAT YOU GET

### 4. What does the Settlement provide?

#### Injunctive Relief

This Settlement calls for injunctive relief in the form of review and potential revisions to Levy's background check policies and practices. Levy agreed to hire a consultant to thoroughly review its current background check policies and practices at the Barclays Center, and provide written proposed modifications if necessary. For more details, Class Members can access the settlement agreement available at [www.levysettlement.com](http://www.levysettlement.com).

#### Individual Payments

Because you had a pending charge, the parties are unable to determine whether you would have qualified for employment by Levy at the Barclays Center, which would entitle you to additional compensation. For the parties to make that determination, and to be potentially eligible for the following individual relief, you must submit a claim form. You have two options:

- **You can seek to be hired by Levy at the Barclays Center and receive a monetary award of \$1,950.00.** Class Members seeking to be hired by Levy at the Barclays Center ("Option 1") must file a Claim Form as described in Section 5 below indicating that they want to be hired by Levy at the Barclays Center and must agree to a new background report in connection with their potential employment. If the new background report does not disqualify you under Levy's approved background check policy for hiring individuals with criminal records, you will be hired for the next open position for which you had previously been made a conditional offer of employment. If that position is not available, you may be placed in a substantially similar position if one is available. You also will receive payment in the amount of \$1,950.00. However, if the new background report disqualifies you from employment under Levy's approved background check policy (even if your conviction record at the time you originally applied would not have disqualified you), then you will not receive a job, but will receive a monetary award of \$1,950.00; or
- **You can decline to be hired by Levy at the Barclays Center and receive a monetary award of \$2,350.00.** Class Members seeking a monetary award of \$2,350.00 ("Option 2"), must file a Claim Form as described in Section 5 indicating they do not seek employment with Levy at the Barclays Center.

If you do not timely submit a Claim Form, or if Levy's background check reveals you would not have been eligible for employment because the charge pending at the time of your application resulted in a disqualifying conviction, as discussed above you are still entitled to a monetary award of \$250.00, but no further individual relief.

#### Additional Payments

Subject to the Court's approval, Levy has also agreed to separately pay Class Counsel's attorneys' fees and costs of no more than \$165,000.00, the cost of administering the Settlement, and a payment to a non-profit organization that provides re-

Contact Christopher M. McNerney or Nina T. Martinez

Outten & Golden LLP, 685 Third Ave., 25th Floor New York, NY 10017

(212) 245-1000 or [BarclaysBackgroundCheck@outtengolden.com](mailto:BarclaysBackgroundCheck@outtengolden.com)

entry support to individuals with criminal history records of no more than \$5,000.00. Subject to the Court's approval, Levy will also pay a service award of \$5,000.00 to Plaintiff Felipe Kelly for bringing the suit, his service to the Class, and reaching this Settlement.

#### **5. How do I submit my Claim Form?**

To be eligible for consideration for hire and/or a payment (Option 1 and 2) from this Settlement, you must submit a Claim Form via e-mail, fax, mail, or online at [www.levysettlement.com](http://www.levysettlement.com) to be received by the Settlement Administrator (or postmarked if mailed) no later than August 9, 2019.

You may print and mail, deliver, or fax the completed form to the Settlement Administrator at:

Kelly v. Levy Settlement Administrator  
PO Box 23668  
Jacksonville, FL 32241-3668  
(877) 430-1941  
[info@levysettlement.com](mailto:info@levysettlement.com)

#### **6. How will my payment be taxed?**

Any payment will be allocated as a non-wage payment, and reported on an IRS Form 1099. Neither Class Counsel nor Levy make any representations concerning the tax consequences of this Settlement and you are advised to seek your own personal tax advice regarding the tax implications of the Settlement.

#### **7. By not excluding myself from this Settlement, what legal claims am I releasing?**

If the Court grants final approval of the Settlement, then all Class Members who do not opt-out of the Settlement are giving up (also called "releasing") their right to sue Defendant in connection with its failure to hire them based on their criminal history. This release includes claims arising from or relating to the denial of employment by Defendant in connection with Class Members' criminal history under the New York City Human Rights Law, Article 23-A of the New York State Correction Law, the federal Fair Credit Reporting Act, the New York State Fair Credit Reporting Act, and Title VII of the Civil Rights Act of 1964, including any right to recover any and all available damages, attorneys' fees, and costs. Class Members give up these rights whether or not they choose to make a claim. Unless you opt-out of the lawsuit, you will be covered by the release, even if you do not submit a Claim Form for participation in Class Member relief.

### **THE LAWYERS REPRESENTING YOU**

#### **8. Do I have a lawyer in this case?**

The Court has appointed the lawyers at Outten & Golden LLP and Youth Represent to represent you and all Class Members. Together, the lawyers are called "Class Counsel." Unless you elect to exclude yourself from the Settlement, you will continue to be represented by Class Counsel in connection with the implementation of the Settlement throughout the duration of the terms of the Settlement at no cost to you.

More information about Outten & Golden LLP is available at [www.outtengolden.com](http://www.outtengolden.com) and at <http://www.criminalconvictiondiscrimination.com/>.

More information about Youth Represent is available at <http://youthrepresent.org/>.

If you have questions about the proposed Settlement, you can get free legal help by contacting Class Counsel:

Ossai Miazad  
Christopher M. McNerney  
Nina T. Martinez  
Outten & Golden LLP  
685 Third Avenue, 25<sup>th</sup> Floor  
New York, NY 10017  
212-245-1000

Michael Pope  
Eric Eingold  
Youth Represent  
11 Park Place, Suite 1512  
New York, NY 10007  
646-759-8080

[BarclaysBackgroundCheck@outtengolden.com](mailto:BarclaysBackgroundCheck@outtengolden.com)

Contact Christopher M. McNerney or Nina T. Martinez  
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(212) 245-1000 or [BarclaysBackgroundCheck@outtengolden.com](mailto:BarclaysBackgroundCheck@outtengolden.com)

### 9. How will the lawyers be paid?

Class Counsel will ask the Court to approve payment of up to \$165,000.00 for their attorneys' fees and costs. The Court may award less than this requested amount.

## EXCLUDING YOURSELF FROM THE SETTLEMENT

If you want to be able to sue Defendant on your own, then you must exclude yourself from the Class. The process is also sometimes referred to as "opting out."

### 10. How do I opt out of the Settlement?

To exclude yourself from the Settlement, you must send an e-mail or letter by First Class U.S. Mail stating the following: "I opt out of the Levy at the Barclays Center Applicant Settlement." Be sure to include your name, address, e-mail address, telephone number, and your signature. Your exclusion request must be e-mailed or postmarked no later than July 25, 2019, to:

Kelly v. Levy Settlement Administrator  
PO Box 23668  
Jacksonville, FL 32241-3668  
[info@levysettlement.com](mailto:info@levysettlement.com)

If you ask to be excluded, you will not be hired or receive a settlement payment, and you cannot object to the Settlement, but you will be able to separately sue Defendant. If you wish to exclude yourself in order to file an individual lawsuit against Defendant, you should speak to a lawyer as soon as possible because your claims are subject to several statutes of limitations.

## OBJECTING TO THE SETTLEMENT

You can tell the Court that you do not agree with the Settlement or some part of it.

### 11. How do I tell the Court that I do not like the Settlement?

You can object to the Settlement if you do not like any part of it. To object, you must send an e-mail or letter via First Class U.S. Mail to the Settlement Administrator saying that you object to *Kelly v. Brooklyn Events Center, LLC et al*, No. 17 Civ. 4600. Be sure to include your name, address, e-mail, telephone number, and all reasons why you object to the Settlement. Any reasons not included in your statement will not be considered. E-mail or mail the objection to:

Kelly v. Levy Settlement Administrator  
PO Box 23668  
Jacksonville, FL 32241-3668  
[info@levysettlement.com](mailto:info@levysettlement.com)

Your letter must be e-mailed or postmarked no later than **July 25, 2019**.

## THE COURT'S FAIRNESS HEARING

The Court will hold a fairness hearing at **10:00 am** on **September 9, 2019** at the United States District Court for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, NY 11201, Courtroom 13C South. You do not need to attend the hearing, but you may attend if you would like at your own expense.

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long the Court's decision will take.

DATED: June 10, 2019

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