

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

CHANDRA CATES, et al.,

*Plaintiffs,*

v.

No. 1:16-cv-06524-GBD

THE TRUSTEES OF COLUMBIA UNIVERSITY  
IN THE CITY OF NEW YORK,

*Defendant.*

**NOTICE OF CLASS ACTION SETTLEMENT AND FAIRNESS HEARING**

**Your legal rights might be affected if you are a member of the following class:**

All participants and beneficiaries of the Retirement Plan for Officers of Columbia University and the Columbia University Voluntary Retirement Savings Plan (collectively, the “Plans”) from August 10, 2010 through March 31, 2021 (the “Class Period”), excluding the Defendant. If you are a Class Member, and this Settlement is finally approved by the Court, your legal rights are affected whether you do or do not act. Please read this Notice carefully.

**PLEASE READ THIS SETTLEMENT NOTICE CAREFULLY.**

- The Court has given its preliminary approval to a proposed settlement (the “Settlement”) of a class action lawsuit brought by certain participants in the Plans against the Trustees of Columbia University in the City of New York (“Defendant”), alleging violations of the Employee Retirement Income Security Act (“ERISA”). The Settlement provides for the allocation of monies directly into the individual accounts of members of the Settlement Class who had Plan accounts during the Class Period with a balance greater than \$0 as of March 31, 2021 (“Current Participants”). Class Members who are entitled to a distribution but who no longer had a Plan account with a balance greater than \$0 as of March 31, 2021 (“Former Participants”) will receive their allocation in the form of a check mailed to their last known address or a rollover, if elected.
- The terms and conditions of the Settlement are set forth in the Settlement Agreement dated May 21, 2021. Capitalized terms used in this Settlement Notice but not defined in this Settlement Notice have the meanings assigned to them in the Settlement Agreement. The Settlement Agreement is available at [www.columbia403bplansettlement.com](http://www.columbia403bplansettlement.com). Any amendments to the Settlement Agreement or any other settlement documents will be posted on that website. You should visit that website if you would like more information about the Settlement and any possible amendments to the Settlement Agreement or other changes, including changes to the Plan of Allocation, the date, time, or location of the Fairness Hearing, or other Court orders concerning the Settlement.
- Your rights and options — and the deadlines to exercise them — are explained in this Settlement Notice.
- The Court still has to decide whether to give its final approval to the Settlement. Payments under the Settlement will be made only if the Court finally approves the Settlement and that final approval is upheld in the event of any appeal.
- A hearing on the final approval of the Settlement and for approval of the Class Representatives’ petition for Attorneys’ Fees and Costs and for Class Representatives’ Compensation will take place on October 12, 2021, at 10:30 a.m. Eastern time, before Judge George B. Daniels in Courtroom 11A, United States Courthouse, 500 Pearl St. New York, NY 10007-1312.
- Any objections to the Settlement, to the petition for Attorneys’ Fees and Costs or to Class Representatives’ Compensation, must be served in writing on Class Counsel and Defendant’s Counsel, as identified on page 5 of this Settlement Notice.
- Further information regarding the litigation, the Settlement, and this Settlement Notice, including any changes to the terms of the Settlement and all orders of the Court regarding the Settlement, may be obtained at [www.columbia403bplansettlement.com](http://www.columbia403bplansettlement.com).

**According to the Plans’ records, you are a Former Participant. If you believe instead that you meet the definition of a Current Participant, please contact the Settlement Administrator. Former Participants are individuals who no longer had an account balance greater than \$0 as of March 31, 2021.**

**YOUR LEGAL RIGHTS AND OPTIONS UNDER THE SETTLEMENT:**

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|--|--|
| <b>OUR RECORDS INDICATE THAT YOU ARE A FORMER PARTICIPANT. YOU MUST RETURN THE ENCLOSED FORMER PARTICIPANT CLAIM FORM BY SEPTEMBER 28, 2021 TO PARTICIPATE IN THE SETTLEMENT</b> | <u>The Plan's records indicate that you are a Former Participant.</u> You must return a Former Participant Claim Form that is postmarked by September 28, 2021, or completed online and filed electronically through the website <a href="http://www.columbia403bplansettlement.com">www.columbia403bplansettlement.com</a> , in order to receive a check or rollover for your share of the Net Settlement Amount. If you are a Former Participant, and you do not return the Former Participant Claim Form that is postmarked by September 28, 2021, or submitted electronically by September 28, 2021, you will forfeit your share of the Net Settlement Amount. A claim form also can be obtained by accessing <a href="http://www.columbia403bplansettlement.com">www.columbia403bplansettlement.com</a> . |
| <b>YOU CAN OBJECT (NO LATER THAN SEPTEMBER 12, 2021)</b>   | If you wish to object to any part of the Settlement, you may (as discussed below) write to the Court and counsel about why you object to the Settlement. The Court has authorized the parties to seek discovery, including the production of documents and appearance at a deposition, from any person who files an objection.   |
| <b>YOU CAN ATTEND A HEARING ON OCTOBER 12, 2021</b>  | If you submit a written objection to the Settlement to the Court and counsel before the deadline, you may attend the hearing about the Settlement and present your objections to the Court. You may attend the hearing even if you do not file a written objection, but you will not be permitted to address the Court at the hearing if you do not notify the Court and counsel of your intention to appear at the hearing by September 12, 2021.   |

**The Class Action**

The case is called *Cates, et. al. v. Trustees of Columbia University in the City of New York*, Case No. 16-6524 (the “Class Action”). It has been pending since August 2016. The Court supervising the case is the United States District Court for the Southern District of New York. The individuals who brought this suit are called Class Representatives, and the entity they sued is called the Defendant. The Class Representatives are current and former participants in the Plans. The Defendant is the Trustees of Columbia University in the City of New York. The Class Representatives’ claims are described below, and additional information about them is available at [www.columbia403bplansettlement.com](http://www.columbia403bplansettlement.com).

**The Settlement**

After four years of litigation, the parties reached a settlement on April 6, 2021. Class Counsel filed this action in August 2016. Since the filing of the action, Class Counsel devoted substantial time and effort to support their underlying claims. The parties participated in mediation and engaged in extensive settlement discussions over a period of six months with the assistance of a private mediator. For those claims that were not dismissed during pretrial proceedings, they were scheduled to be tried beginning on April 12, 2021. Shortly before trial, the parties reached a tentative settlement on the claims.

As part of the Settlement, a Qualified Settlement Fund of \$13,000,000 will be established to resolve the Class Action. The Net Settlement Amount is \$13,000,000 minus any Administrative Expenses, taxes, tax expenses, Court-approved Attorneys’ Fees and Costs, Class Representatives’ Compensation, and other approved expenses of the litigation. The Net Settlement Amount will be allocated to Class Members according to a Plan of Allocation to be approved by the Court.

**Statement Of Attorneys’ Fees and Costs Sought in the Class Action**

Class Counsel devoted thousands of hours bringing this action, pursuing it for more than four years, and have successfully cleared numerous obstacles since filing this action. Class Counsel defeated Defendant’s motion to dismiss and its motion for summary judgment, and also obtained class certification over Defendant’s partial opposition. In doing so, they advanced substantial costs for expert witnesses, document review, depositions, and other costs necessary to pursue the case. In total, Class Counsel have reviewed and analyzed over 350,000 pages of documents produced in this litigation. Class Counsel took the risk of litigation and have not been paid for any of their time or for any of these costs throughout the time this case has been pending before the District Court. Class Counsel also has agreed to undertake the additional risk of paying half of the costs of the settlement process if the Settlement is not approved.

Class Counsel will apply to the Court for payment of Attorneys’ Fees and Costs for their work in the case. The amount of fees (not including costs) that Class Counsel will request will not exceed one-third of the Settlement Amount, \$4,333,333.33 in addition to no more than \$700,000 in litigation costs. Class Counsel will not seek to receive any interest earned by the Qualified Settlement Fund, which will be added to the amount received by the Class. Any Attorneys’ Fees and Costs awarded by the Court to Class Counsel will be paid from the Qualified Settlement Fund.

As is customary in class action cases, in which the Class Representatives have spent time and effort on the litigation, Class Counsel also will ask the Court to approve payments, not to exceed \$25,000 each for six Class Representatives who took on the risk of

litigation, sat for depositions, responded to discovery, devoted considerable time, and committed to spend the time necessary to bring the case to conclusion. Their activities also included assisting in the factual investigation of the case by Class Counsel, reviewing settlement negotiations, preparing for depositions, preparing for trial, and giving overall support to the case. Any Class Representatives' Compensation awarded by the Court will be paid from the Qualified Settlement Fund.

A full and formal application for Attorneys' Fees and Costs and for Class Representatives' Compensation will be filed with the Court and made available on the Settlement Website, [www.columbia403bplansettlement.com](http://www.columbia403bplansettlement.com).

### **1. Why Did I Receive This Settlement Notice?**

The Court caused this Settlement Notice to be sent to you because Columbia's records indicate that you may be a Class Member. If you fall within the definition of the Class, you have a right to know about the Settlement and about all of the options available to you before the Court decides whether to give its final approval to the Settlement. If the Court approves the Settlement, and after any objections and appeals are resolved, the Net Settlement Amount will be allocated among Class Members according to a Court-approved Plan of Allocation.

### **2. What Is The Class Action About?**

In the Class Action, Class Representatives claim that, during the Class Period, the Defendant violated the Employee Retirement Income Security Act of 1974 ("ERISA"), as amended, 29 U.S.C. §1001, *et seq.*, with respect to its management, operation, and administration of the Plans, including allowing excessive fees and imprudent investments in the Plans.

Defendant has denied and continues to deny the claims and contentions of the Class Representatives, that it is liable at all to the Class, and that the Class or the Plans have suffered any harm or damage for which Defendant could or should be held responsible.

### **3. Why Is There A Settlement?**

The Court has not reached a final decision as to the Class Representatives' claims. Instead, after more than four years of litigation, the Class Representatives and Defendant have agreed to the Settlement. The Settlement is the product of extensive negotiations between Class Counsel and Defendant's counsel and multiple sessions with a private mediator. The Settlement only was reached shortly before the trial in this case. The parties to the Settlement have taken into account the uncertainty and risks of litigation and have concluded that it is desirable to settle on the terms and conditions set forth in the Settlement Agreement. The Class Representatives and Class Counsel, who are experienced in this kind of matter, believe that the Settlement is best for all Class Members.

### **4. What Does The Settlement Provide?**

The Net Settlement Amount will be allocated to Class Members according to a Plan of Allocation to be approved by the Court. Class Members fall into two categories: Current Participants and Former Participants. Allocations to Current Participants who are entitled to a distribution under the Plan of Allocation will be made into their existing Plan accounts. Former Participants who are entitled to a distribution will receive their distribution as a check mailed to their last known address or, if they elect, as a rollover to a qualified retirement account.

All Class Members and anyone claiming through them will fully release the Plans as well as Defendants and their "Released Parties" from "Released Claims." The Released Parties include: (a) Defendant, (b) Defendant's past, present, and future parent corporation(s), (c) Defendant's past, present, and future affiliates, subsidiaries, divisions, joint ventures, predecessors, successors, successors-in-interest, and assigns, and (d) with respect to (a) through (c) above, all of their past, present, and future affiliates, subsidiaries, divisions, joint ventures, predecessors, successors, successors-in-interest, assigns, employee benefit plan fiduciaries (with the exception of the Independent Fiduciary), administrators, service providers, subcontractors, officers, directors, partners, agents, managers, members, employees, independent contractors, representatives, attorneys, administrators, fiduciaries, insurers, co-insurers, reinsurers, shareholders, accountants, auditors, advisors, consultants, trustees, associates, and all persons acting under, by, through, or in concert with any of them.

The Released Claims include all claims that were asserted or might have been asserted in the Class Action or would be barred by the principle of res judicata had the claims asserted been fully litigated and resulted in final judgment; claims against Defendant's insurers; and all claims relating to the implementation of the Settlement.

This is only a summary of the Released Claims and not a binding description of the Released Claims. The actual governing release is found within the Settlement Agreement at [www.columbia403bplansettlement.com](http://www.columbia403bplansettlement.com). Generally, the release means that Class Members will not have the right to sue the Defendant, the Plan, or the Released Parties for conduct during the Class Period arising out of or relating to the allegations in the Class Action.

This is only a summary of the Settlement. The entire Settlement Agreement is at [www.columbia403bplansettlement.com](http://www.columbia403bplansettlement.com).

## 5. How Much Will My Distribution Be?

The amount, if any, that will be allocated to you will be based upon records maintained by the Plans' recordkeepers, or, if on March 31, 2021, you either no longer had a Plan account or had a Plan account with no money in it, based upon your Former Participant Claim Form. Calculations regarding the individual distributions will be performed by the Settlement Administrator, whose determinations will be final and binding, pursuant to the Court-approved Plan of Allocation.

To be eligible for a distribution from the Net Settlement Amount, you must either be a (1) "Current Participant" as defined on page 1 or (2) an "Authorized Former Participant" (a "Former Participant" as defined on page 1 who submitted a completed, satisfactory Former Participant Claim Form that is postmarked or submitted electronically by the deadline), or (3) a beneficiary, alternate payee, or attorney-in-fact of persons identified in (1) or (2).

Payments to Authorized Former Participants and Current Participants shall be calculated by the Settlement Administrator as follows:

1. The end-of-quarter balances for the Class Period of each Current Participant and each Authorized Former Participant are identified for each quarter;
2. All end-of-quarter balances identified in step 1 are summed together for each Current Participant and each Authorized Former Participant;
3. An average end-of-quarter balance for each Current Participant and each Authorized Former Participant is calculated for the Class Period (with a zero included as the balance for any quarter during which the individual did not participate in the Plan or took a full distribution during the quarter);
4. For each Current Participant and each Authorized Former Participant, the average end-of-quarter balance of step 3 is divided by the average end-of-quarter balance for the Class Period of all Current and Authorized Former Participants;
5. Each Current Participant and each Authorized Former Participant will receive the fraction of the total Net Settlement Amount which is calculated in step 4.

No amount shall be distributed to a Class Member that is ten dollars (\$10.00) or less, because such an amount is de minimis and would cost more in processing than its value. The method of making these calculations is described in the Plan of Allocation, found in Article 6 of the Settlement Agreement and available at [www.columbia403bplansettlement.com](http://www.columbia403bplansettlement.com).

There are over 30,000 Class Members.

Note that if you are an alternate payee pursuant to a Qualified Domestic Relations Order, your portion of the Settlement will be distributed pursuant to the terms of that order.

## 6. How Can I Receive My Distribution?

Whether you need to submit a claim form to receive your distribution depends on whether you are considered a "Current Participant" or a "Former Participant." **According to Columbia University's records, you are a Former Participant. Therefore, you need to return your Claim Form or submit your claim online to receive your share of the Settlement.**

## 7. When Will I Receive My Distribution?

The timing of the distribution of the Net Settlement Amount is conditioned on several matters, including the Court's final approval of the Settlement and that approval becoming final and no longer subject to any appeals in any court. An appeal of the final approval may take several years. If the Settlement is approved by the Court, and there are no appeals, the Settlement distribution will likely not occur before late 2021.

**There Will Be No Payments Under The Settlement If The Settlement Agreement Is Terminated.**

## 8. Can I Get Out Of The Settlement?

No. The Class was certified under Federal Rule of Civil Procedure 23(b)(1). Therefore, as a Class Member, you are bound by any judgments or orders that are entered in the Class Action for all claims that were asserted in the Class Action or are otherwise included as Released Claims under the Settlement.

## 9. Do I Have A Lawyer In The Case?

The Court has appointed the law firm Schlichter Bogard & Denton, in St. Louis, Missouri, as Class Counsel in the Class Action. If you want to be represented by your own lawyer, you may hire one at your own expense.

#### 10. How Will The Lawyers Be Paid?

Class Counsel will file a petition for the award of Attorneys' Fees and Costs. This petition will be considered at the Fairness Hearing. Class Counsel has agreed to limit their application for an award of Attorneys' Fees and Costs to not more than \$4,333,333.33 in fees and \$700,000 in costs. The Court will determine what fees and costs will be approved.

#### 11. How Do I Tell The Court If I Don't Like The Settlement?

If you are a Class Member, you can tell the Court that you do not agree with the Settlement or some part of it. To object, you must send the Court a written statement that you object to the Settlement in *Cates, et. al. v. Trustees of Columbia University in the City of New York*, Case No. 16-6524. Be sure to include your name, address, telephone number, signature, and a full explanation of why you object to the Settlement. Your written objection must be received by the Court no later than September 12, 2021. The Court's address is Clerk of the Court, United States District Court, Southern District of New York, 500 Pearl St. New York, NY 10007-1312. Your written objection also must be mailed to the lawyers listed below, **no later than September 12, 2021**. Please note that the Court's Order Granting Preliminary Approval of this Settlement provides that any party to the litigation may, but is not required to, serve discovery requests, including requests for documents and notice of deposition not to exceed two hours in length, on any objector. Any responses to discovery, or any depositions, must be completed within ten days of the request being served on the objector.

| CLASS COUNSEL  | DEFENDANT'S COUNSEL  |
|--|--|
| Andrew D. Schlichter (aschlichter@uselaws.com)<br>Jerome J. Schlichter (jschlichter@uselaws.com)<br>Heather Lea (hleas@uselaws.com)<br>Joel D. Rohlf (jrohlf@uselaws.com)<br>Nathan H. Emmons (nemmons@uselaws.com)<br>SCHLICHTER BOGARD & DENTON<br>Attn: Columbia University 403(b) Settlement<br>100 S. Fourth St., Suite 1200<br>St. Louis, MO 63102<br>Tel: (314) 621-6115<br>Fax: (314) 621-5934 | E. Brantley Webb (bwebb@mayerbrown.com)<br>Michelle N. Webster (mwebster@mayerbrown.com)<br>MAYER BROWN LLP<br>Attn: Columbia University 403(b) Settlement<br>1999 K Street NW<br>Washington, DC 20006<br>Tel: (202) 263-3000<br>Fax: (202) 263-3300 |

#### 12. When And Where Will The Court Decide Whether To Approve The Settlement?

The Court will hold a Fairness Hearing at 10:30 a.m. Eastern time on October 12, 2021, at the United States District Court for the Southern District of New York, Courtroom 11A, 500 Pearl St., New York, NY 10007-1312.

At the Fairness Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. After the Fairness Hearing, the Court will decide whether to give its final approval to the Settlement. The Court also will consider the petition for Class Counsel's Attorneys' Fees and Costs and any Class Representatives' Compensation.

#### 13. Do I Have To Attend The Fairness Hearing?

No, but you are welcome to come at your own expense. If you send an objection, you do not have to come to the Court to talk about it. If you mailed your written objection on time, the Court will consider it when the Court considers whether to approve the Settlement as fair, reasonable and adequate. You also may pay your own lawyer to attend the Fairness Hearing, but such attendance is not necessary.

#### 14. May I Speak At The Fairness Hearing?

If you are a Class Member, you may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter or other paper called a "Notice of Intention to Appear at Fairness Hearing in *Cates, et. al. v. Trustees of Columbia University in the City of New York*, Case No. 16-6524." Be sure to include your name, address, telephone number, and your signature. Your Notice of Intention to Appear must be mailed to the attorneys and filed with the Clerk of the Court, at the addresses listed in the Answer to Question No. 11, **no later than September 12, 2021**.

#### 15. What Happens If I Do Nothing At All?

If you are a "Current Participant" as defined on page 1, and do nothing, you will participate in the Settlement of the Class Action as described above in this Settlement Notice if the Settlement is approved.

If you are a “Former Participant” as defined on page 1, and you do nothing, you will be bound by the Settlement of the Class Action as described above in this Settlement Notice if the Settlement is finally approved, BUT YOU WILL NOT RECEIVE ANY MONEY.

#### **16. How Do I Get More Information?**

If you have general questions regarding the Settlement, you can visit this website: [www.columbia403bplansettlement.com](http://www.columbia403bplansettlement.com), call 1-(844)-292-2217, e-mail to [Info@columbia403bplansettlement.com](mailto:Info@columbia403bplansettlement.com), or write to the Columbia University 403(b) Settlement Administrator at 1650 Arch Street Suite 2210, Philadelphia, PA 19103.