

## BUSINESS CLASS LONG FORM NOTICE

*Smith et al. v. Kaye-Smith Enterprises, Inc.*  
United States District Court for the District of Oregon  
Cause No. 3:22-cv-01499-AR

### **If your business suffered financial losses due to a data breach to Kaye-Smith Enterprises, Inc. (“Kaye-Smith”) in June 2022 (the “Data Incident”), a proposed class action settlement may affect your rights.**

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

- A settlement has been reached in a class action lawsuit against Kaye-Smith. The lawsuit involves allegations that Kaye-Smith Enterprises, Inc. failed to protect sensitive personal information it received from Business Associates and failed to timely notify individuals after learning their information was exposed. Kaye-Smith denies these allegations.
- The parties have agreed to a proposed settlement on behalf of those persons directly affected by the Data Incident.
- Kaye-Smith has agreed to pay no less than \$2,000,000 into a fund that will be used to pay settlement awards to eligible persons and businesses who file claims, settlement administration expenses, any court-awarded service awards, and court-awarded attorneys’ fees and costs.
- Court-appointed lawyers for the Settlement Class (“Class Counsel”) will ask the Court for a payment of one third of the fund (approximately \$667,000) as attorneys’ fees. In addition, Class Counsel will ask the Court to reimburse them for out-of-pocket expenses they incurred in this case, which currently amount to approximately \$50,000. Class Counsel will also request service awards of up to \$5,000 to each of the class representatives.
- Your legal rights are affected whether you act, or don’t act. Read this Notice carefully.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>	
<b>SUBMIT A CLAIM FORM BY DECEMBER 26, 2024</b>	This is the only way to receive a payment.
<b>EXCLUDE YOURSELF BY DECEMBER 2, 2024</b>	You will receive no benefits from the Settlement if you exclude yourself. You keep any rights to sue Kaye-Smith or its Business Associates separately about the same or similar legal claims.
<b>OBJECT BY DECEMBER 26, 2024</b>	You may file a written objection with the Court if you disagree with any portion of the Settlement. If you exclude yourself from the Settlement, the Court will not consider an objection from you.
<b>ATTEND A HEARING ON JANUARY 7, 2025</b>	You may ask to speak in Court about the fairness of the settlement.
<b>Do NOTHING</b>	Get no payment. Give up your rights.

## **BASIC INFORMATION**

### **1. Why did I receive this notice?**

Kaye-Smith’s records show that you were a Business Associate of Kaye-Smith at the time of the Data Incident and may have suffered business losses as a result. Accordingly, you may be eligible to receive a cash payment from the settlement. The purpose of this Notice is to let you know that the parties have reached a proposed settlement in the class action lawsuit entitled *Smith et al. v. Kaye-Smith Enterprises, Inc.*, Cause No. 3:22-cv-01499-AR, pending in the United States District Court for the District of Oregon. You have legal rights and options that you may act on before the Court decides whether to approve the proposed settlement. Because your rights will be affected by this settlement, it is extremely important that you read this Notice carefully. This Notice summarizes the settlement and your rights under it.

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### 2. What is this lawsuit about?

The Named Plaintiff alleges that Kaye-Smith violated the Washington Consumer Protection Act, and state common law by failing to protect sensitive personal information it received from Business Associates and failed to timely notify individuals after learning their information may have been compromised in the Data Incident. The Named Plaintiff further alleges that Kaye-Smith breached terms of its contract with its business clients by failing to protect this information. Kaye Smith denies these allegations.

### 3. What is a class action and who is involved?

In a class action lawsuit, one or more people called plaintiff or “class representative” sue on behalf of other people who have similar claims. The people together are a “class” or “class members.” The party they sue (in this case Kaye-Smith Enterprises, Inc.) is called the defendant. If the lawsuit proceeds as a class action, it resolves the issues for everyone in the class—except for those people who choose to exclude themselves from the class.

## THE SETTLEMENT

### 4. Why is there a settlement?

The Court did not decide in favor of the Plaintiffs or Kaye-Smith. Instead, both sides agreed to a settlement. That way, they avoid the cost of a trial, and the people affected will get compensation. The class representatives and their attorneys think the settlement is best for the Settlement Class.

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

You are in the “Business Settlement Class” if (1) you had a business relationship with Kaye-Smith, and, (2) your business was financially affected by the Data Security Incident, and (3) you have not resolved your claims against Kaye-Smith prior to October 19, 2023.

The Settlement Class does not include any persons who validly request exclusion from the Settlement Class, as described under Question 11. A person who does not exclude themselves is a “Settlement Class Member.”

If you have questions about whether you are a part of the Settlement Class, you may call 877-203-8209 or visit [www.KayeSmithSettlement.com](http://www.KayeSmithSettlement.com) for more information.

## THE SETTLEMENT BENEFITS

### 6. What does the Settlement Agreement provide?

Kaye-Smith has agreed to pay no less than \$2,000,000 to pay Settlement Class Members who submit valid claims, any court-approved attorneys’ fees, litigation expenses, service awards, and notice and settlement administration expenses. You will not receive any settlement payment unless you submit a Claim Form as described in Question 8.

Business Settlement Class Members may submit a claim for reimbursement for business losses fairly traceable to the Data Breach incident. The actual amount of the reimbursement under the settlement will depend on the amounts remaining in the Settlement Fund after paying (1) notice and settlement administration costs; (2) court-approved attorneys’ fees of approximately \$667,000.00, costs not to exceed \$50,000, and service awards of up to \$5,000 to the Named Plaintiff; and (3) the amount of Business Losses claimed by Business Class Settlement Members.

### 7. What are the tax implications of accepting a settlement payment?

The tax implications may vary based on your income, the amount you receive and other factors, so you should consult a tax professional to assess the specific tax implications of any payment you may receive. Class Counsel and the settlement administrator cannot advise you with respect to your tax obligations.

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### HOW YOU GET A PAYMENT – SUBMITTING A CLAIM FORM

#### 8. How do I make a claim?

To qualify for a settlement payment, you must submit a Claim Form by **December 26, 2024**. You may submit a Claim Form online by going to the Settlement Website at [www.KayeSmithSettlement.com](http://www.KayeSmithSettlement.com) and following the instructions. You may also download a paper Claim Form on the Settlement Website or call the settlement administrator at 877-203-8209 to request a paper Claim Form and submit the Claim Form by mail. Claim Forms sent by mail must be postmarked by **December 26, 2024** and mailed to:

Kaye-Smith Data Breach Settlement Administrator  
PO Box 2378  
Portland, OR 97208-2378

If you have questions about the claim submission process you may call the settlement administrator at 877-203-8209 or visit [www.KayeSmithSettlement.com](http://www.KayeSmithSettlement.com) for more information

#### 9. When will I get my payment?

The Court will hold a hearing on January 7, 2025 to decide whether to approve the settlement, as described in Question 19. If no appeals are timely filed after the Court enters the Final Approval Order, then the Order and settlement will become final. Settlement payments will be sent to Settlement Class Members who submitted valid claims approximately 30 days from the Settlement's Effective Date (roughly 65 days after the Settlement is approved). The checks will only be valid for 120 days from the date of issuance, after which you will not be able to cash or deposit them. However, if an appeal is filed, payments will not be sent until after the appeal is finally resolved, which could take more than one year.

#### 10. What am I giving up to stay in the Settlement Class?

Unless you request to exclude yourself, you are staying in the Settlement Class and you will be a Settlement Class Member. If the Court approves the settlement and it becomes final, you and other Settlement Class Members can't sue, continue to sue, or be part of any other lawsuit against the "Released Parties" regarding the Data Incident.

The Settlement Agreement (available at [www.KayeSmithSettlement.com](http://www.KayeSmithSettlement.com)) describes the claims you are releasing and against whom you are releasing claims, so read it carefully. To summarize, the release includes claims against Kaye-Smith or the Business Associates through which Kaye-Smith obtained the compromised data (the "Released Parties") that arise out of or relate to the Data Incident.

### EXCLUDING YOURSELF FROM THE SETTLEMENT

If you don't want to receive the benefits of this settlement or if you want to keep the right to sue or continue to sue Kaye-Smith or its Business Associates regarding the Data Incident, then you must take steps to remove yourself from the Settlement Class. This is called excluding yourself – or is sometimes referred to as "opting out" of the Settlement Class.

#### 11. How do I exclude myself from the settlement?

To "opt out" or exclude yourself from the settlement you must send the request in writing to the Settlement Administrator. The request must include: 1) The name and address of the purported Business Class Member, and the identity of the individual within the Business Class with authority to bind the Business Class Member to a settlement and/or the authority to withdraw from Settlement Class; 2) Identify all Business Losses and provide copies of all documents evidencing all losses for which the Business Class Member seeks reimbursement; 3) A statement of whether, prior to the Opt-Out date, the purported Business Class Member ever asserted a claim to Kaye-Smith, provided notice of a claim and/or was compensated for any claim it may have had against Kaye-Smith arising from the Data Security Incident, and if so, you must identify when such claim(s) were made, how and to whom the claim(s) were communicated and provide copies of all documents evidencing the same; 4) The specific legal and equitable basis for any claims intended to be brought against Kaye-Smith, and the amount of any such claim; 5) Specific efforts taken, with supporting

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documents, by the Business Class Member to mitigate Business Losses; and 6) Detailed explanation, with supporting documents, for the reason for opting out. You can mail your exclusion request, which must be postmarked no later than **December 2, 2024**, to the following address:

Kaye-Smith Data Breach Settlement Administrator  
PO Box 2378  
Portland, OR 97208-2378

Requests for exclusion mailed after **December 2, 2024** will not be effective and will not result in your being excluded from the Settlement Class.

If you ask to be excluded, you will not get any payment, and you cannot object to the settlement. You will not be legally bound by anything that happens in this lawsuit. In the event you exclude yourself from the Settlement and have validated Business Losses exceeding \$250,000, your exclusion could cause this settlement to terminate.

### 12. Why would I ask to be excluded?

If you already have, or want to bring, your own lawsuit against the Released Parties regarding the Data Incident and want to continue with the lawsuit, you need to ask to be excluded from the Settlement Class. If you exclude yourself from the Settlement Class you won't get any money from the Settlement. However, you may be able to sue or continue to sue the Released Parties regarding the Data Incident on your own. If you exclude yourself, you will not be legally bound by the Court's judgments in this class action.

### 13. If I exclude myself, can I get anything from this settlement?

No. You will not receive any payment from the settlement if you exclude yourself.

## THE LAWYERS REPRESENTING YOU

### 14. Do I have a lawyer in this lawsuit?

The Court decided that the law firms of Heenan & Cook, Rhodes Legal Group, PLLC and Baxter & Baxter, LLP are qualified to represent you and all Settlement Class Members. These law firms are referred to as "Class Counsel." You will not receive a bill from these lawyers, who have asked the Court to be paid a percentage of the Settlement Fund. If you want to be represented by your own lawyer, you may hire one at your own expense. The names and addresses of Class Counsel are:

Ari Brown  
RHODES LEGAL GROUP, PLLC  
918 South Horton Street, Suite 901  
Seattle, Washington 98134

John Heenan  
Heenan & Cook, PLLC  
1631 Zimmerman Trail, Suite 1  
Billings, Montana 59102

Justin Baxter  
BAXTER & BAXTER, LLP  
8835 S.W. Canyon Lane, Suite 130  
Portland, Oregon 97225

### 15. Should I get my own lawyer?

You do not need to hire your own lawyer because Class Counsel are working on your behalf. But, if you want to hire your own lawyer, you will have to pay that lawyer. For example, you can ask a lawyer to appear in Court for you if you want someone other than Class Counsel to speak for you.

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

Class Counsel will ask the Court to approve payment of attorneys' fees in the amount of one-third of the \$2,000,000 Settlement Fund (which may be increased due to unspent litigation or administration costs) plus litigation costs of approximately \$50,000. This payment compensates Class Counsel for investigating the facts, litigating the case,

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and negotiating the settlement. Class Counsel will also request \$5,000 service awards for named plaintiffs, Richard Smith, Noel Woodard, and Richard Krefting, and \$2,500 for Name Plaintiff Washington Federal Bank to compensate for time and effort during the litigation. Class Counsel's complete request for fees, costs, and the service award to the Class Representative will be posted on the settlement website, [www.KayeSmithSettlement.com](http://www.KayeSmithSettlement.com). The Court may award less than these amounts.

### OBJECTING TO THE SETTLEMENT

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

If you are a Settlement Class Member and you do not exclude yourself from the Settlement Class, you can ask the Court to deny approval by filing an objection. 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.

Any objection to the proposed settlement must be in writing and include your name, address, telephone number, the name of the case, and the reason(s) for your objection, and meet the criteria described in the Settlement Agreement, which is posted on the settlement website, [www.KayeSmithSettlement.com](http://www.KayeSmithSettlement.com). You must mail a copy of the objection to the following addresses postmarked no later than **December 26, 2024** and file it with the Court:

SETTLEMENT ADMINISTRATOR	CLASS COUNSEL	DEFENSE COUNSEL
Kaye-Smith Data Breach Settlement Administrator PO Box 2378 Portland, OR 97208-2378	John Heenan Heenan & Cook, PLLC 1631 Zimmerman Trail, Suite 1 Billings, Montana 59102	Christopher Seusing Tim Shea Wood Smith Henning & Berman, LLP 801 Kirkland Avenue, Suite 100 Kirkland, WA 98033

#### 18. What is 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 FINAL APPROVAL 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 on **January 7, 2025 at 2:00 p.m.**, before the Honorable Jeffrey Armistead of the United States District Court for the District of Oregon, 1000 SW 3rd Ave #740, Portland, OR 97204. The purpose of the hearing is for the Court to determine whether the Settlement is fair, reasonable, adequate, and in the best interest 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 and expenses and the service awards to the Named Plaintiffs. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take.

The 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.KayeSmithSettlement.com](http://www.KayeSmithSettlement.com). You can also monitor case activity and changes to the dates and time of the Final Approval Hearing by accessing the Court docket in this case through the Court's Public Access to Court Electronic Records (PACER) system at <https://www.ord.uscourts.gov/>, or by visiting the office of the Clerk of the Court for the United States District Court for the District of Oregon, 1000 SW 3rd Ave #740, Portland, OR 97204, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays

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

No. Class Counsel will answer any questions the Court may have. You are welcome to come to the hearing at your own expense. If you send an objection, you don't have to come to Court to talk about it; as long as your written objection was filed or mailed on time, and meets the other criteria described in the Settlement Agreement, the Court will consider it. You may also pay a lawyer to attend, but you don't have to.

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

If you do not exclude yourself from the Settlement Class, you may ask the Court for permission to speak at the hearing concerning any part of the proposed Settlement Agreement. If you submit an objection (see Question 17 above) and intend to appear at the hearing, you must state your intention to do so in your objection. You cannot speak at the hearing if you exclude yourself or if you fail to state your intention to do so in your objection.

## IF YOU DO NOTHING

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

If you do nothing, you will be a member of the Settlement Class and you will not receive payment from the settlement. You will also be bound by the terms of the settlement, including the Release described in Question 10, above.

## GETTING MORE INFORMATION

### 23. Are there more details about the settlement?

This notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may review and download or print a copy of the Settlement Agreement via the settlement website at [www.KayeSmithSettlement.com](http://www.KayeSmithSettlement.com). You can also get a copy of the Settlement Agreement by writing to Kaye-Smith Data Breach Settlement Administrator at PO Box 2378, Portland, OR 97208-2378.

### 24. How do I get more information?

You can call 877-203-8209 toll free; write to Kaye-Smith Data Breach Settlement Administrator at PO Box 2378, Portland, OR 97208-2378; or visit the settlement website at [www.KayeSmithSettlement.com](http://www.KayeSmithSettlement.com) where you will find answers to common questions about the settlement, the Settlement Agreement, Plaintiff's Complaint, Class Counsel's motion for an award of attorneys' fees and costs, and other information.

**PLEASE DO NOT CONTACT THE COURT, THE JUDGE, OR KAYE-SMITH WITH QUESTIONS ABOUT THE SETTLEMENT.**