

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

**If your financial institution issued one or more payment cards identified as having been at risk as a result of the cyber-attack that Eddie Bauer announced in 2016, it could get a payment from a class action settlement.**

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

- A settlement has been proposed to resolve a lawsuit against Eddie Bauer, LLC (“Eddie Bauer”) brought by a financial institution, as a result of third-party criminal cyber-attacks of Eddie Bauer’s point-of-sale systems, involving malware targeting customers’ payment card information that Eddie Bauer reported in 2016 (the “Cyber Attack”).
- The lawsuit, *Veridian Credit Union v. Eddie Bauer LLC*, No. 2:17-cv-00356 (W.D. Wash.), alleges that Eddie Bauer is legally responsible for the Cyber Attack and asserts claims for negligence and violation of RCW 19.255.020 and the Washington Consumer Protection Act, RCW 19.86. Eddie Bauer denies these allegations and claims it did not do anything wrong.
- Under the Settlement, Eddie Bauer will pay, on a claims-made basis, at least \$1,000,000, and up to \$2,800,000, into an Escrow Account out of which the Settlement Administrator will make payments to eligible Settlement Class Members. A Settlement Class Member, who submits a valid claim, will receive \$2.00 for each eligible payment card it issued, subject to a *pro rata* increase if the total value of eligible claims submitted is less than \$1,000,000. In addition, Eddie Bauer agrees to certain injunctive relief and will continue to maintain compliance with the Payment Card Industry Data Security Standards, for which Eddie Bauer has expended, and expects to expend, approximately \$5,000,000. Eddie Bauer also has agreed to pay up to an additional \$2,000,000 to cover the Costs of Settlement Administration, which may include any attorneys’ fees, costs, and expenses and Service Award payments that are approved by the Court.

***Your financial institution’s legal rights are affected whether you act or don’t act. Read this notice carefully.***

<b>SUBMIT A CLAIM FORM</b>	If eligible, your financial institution will receive a cash payment. This is the only way to receive compensation from the Settlement.
<b>EXCLUDE YOUR FINANCIAL INSTITUTION</b>	If you ask to be excluded, you will not receive a cash payment, but you may be able to file your own lawsuit against Eddie Bauer for the same claims. This is the only option that leaves your financial institution the right to file its own lawsuit against Eddie Bauer and/or Defendant’s Released Persons (as defined in the Settlement) for the claims that are being resolved by the Settlement. In order to be effective, a request to be excluded from the Settlement must include all information required by the Settlement.
<b>OBJECT</b>	Your financial institution can remain in the Settlement Class and file an objection telling the Court why you do not like the Settlement. If your objections are overruled, your financial institution will be bound by the Settlement.
<b>DO NOTHING</b>	If you do nothing, you will not receive any cash payment. If you do nothing, you will also forfeit your right to sue or bring any claim against Eddie Bauer and/or Defendant’s Released Persons (as defined in the Settlement) related to the Cyber Attack.

- These rights and options—**and the deadlines to exercise them**—are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made if the Court approves the Settlement and after any appeals are resolved. Please be patient.

Questions? Call 888-335-2947 toll free, or visit [www.EddieBauerDataBreachSettlement.com](http://www.EddieBauerDataBreachSettlement.com)

## WHAT THIS NOTICE CONTAINS

<b>BASIC INFORMATION.....</b>	<b>Page 3</b>
1. Why did my financial institution get this notice package?	
2. What is this lawsuit about?	
3. Why is this a class action?	
4. Why is there a settlement?	
<b>WHO IS PART OF THE SETTLEMENT.....</b>	<b>Page 3</b>
5. How does a financial institution know if it is part of the Settlement?	
6. Are there exceptions to being included?	
7. I am still not sure if my financial institution is included.	
<b>THE SETTLEMENT BENEFITS.....</b>	<b>Page 4</b>
8. What does the Settlement provide?	
9. How much will my financial institution’s payment be?	
<b>HOW TO GET A PAYMENT – SUBMITTING A CLAIM FORM.....</b>	<b>Page 4</b>
10. How can my financial institution get payment?	
11. When would my financial institution get its payment?	
12. What is my financial institution giving up to get a payment or remain in the Settlement Class?	
<b>EXCLUDING YOUR FINANCIAL INSTITUTION FROM THE SETTLEMENT .....</b>	<b>Page 5</b>
13. How can my financial institution opt out of the Settlement?	
14. If my financial institution doesn’t opt out, can it sue Eddie Bauer for the same thing later?	
15. If my financial institution excludes itself, can it get money from this Settlement?	
<b>THE LAWYERS AND FINANCIAL INSTITUTIONS REPRESENTING YOU .....</b>	<b>Page 6</b>
16. Does my financial institution have a lawyer in the case?	
17. How will the lawyers and financial institutions representing the class be paid?	
<b>OBJECTING TO THE SETTLEMENT .....</b>	<b>Page 6</b>
18. How does a financial institution tell the Court that it does not like the Settlement?	
19. What is the difference between objecting and excluding/opting out?	
<b>THE COURT’S FINAL APPROVAL HEARING.....</b>	<b>Page 7</b>
20. When and where will the Court decide whether to approve the Settlement?	
21. Does my financial institution have to attend the hearing?	
<b>IF YOU DO NOTHING.....</b>	<b>Page 8</b>
22. What happens if my financial institution does nothing at all?	
<b>GETTING MORE INFORMATION.....</b>	<b>Page 8</b>
23. How do I get more information?	

## BASIC INFORMATION

### 1. Why did my financial institution get this notice package?

Your financial institution may have issued payment cards identified in one of the alerts (or a similar document) sent out by the card brands (Visa, MasterCard, Discover, or JCB) related to the Cyber Attack.

The Court authorized this notice because you have a right to know about your financial institution's rights under a proposed class action settlement before the Court decides whether to approve the Settlement. If the Court approves the Settlement, and after objections and appeals are resolved, a Settlement Administrator appointed by the Court will make the cash payments that the Settlement allows.

This package explains the lawsuit, Settlement, your financial institution's rights, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of the case is the U.S. District Court for the Western District of Washington, and the case is known as *Veridian Credit Union v. Eddie Bauer LLC*, No. 2:17-cv-00356. The financial institution that sued is called the "Plaintiff," and the company it sued, Eddie Bauer, is the "Defendant."

### 2. What is this lawsuit about?

The lawsuit, *Veridian Credit Union v. Eddie Bauer LLC*, No. 2:17-cv-00356 (W.D. Wash.), alleges that Eddie Bauer is legally responsible for the Cyber Attack and asserts claims for negligence and violation of RCW 19.255.020 and the Washington Consumer Protection Act, RCW 19.86. The financial institution seeks to recover damages in the lawsuit for the expense of payment card reissuance, amounts paid to cover fraudulent payment card charges, and other costs allegedly incurred as a result of the Cyber Attack. Eddie Bauer denies any wrongdoing.

### 3. Why is this a class action?

In a class action, one or more entities called "class representatives" sue on behalf of themselves and other entities with similar claims. All of these entities together are the "class" or "class members." One court resolves the issues for all class members, except for those who exclude themselves from the settlement class.

### 4. Why is there a settlement?

The Court has not decided in favor of Plaintiff or Eddie Bauer. Instead, both sides, with the assistance of a mediator, agreed to the Settlement. The Settlement is not an admission that Eddie Bauer did something wrong, but rather a compromise to end the lawsuit. By agreeing to settle, both sides avoid the costs, risks, and uncertainties of a trial and related appeals, while providing benefits to members of the Settlement Class. The Settlement Class Representative and the attorneys for the Settlement Class think the Settlement is best for all class members.

## WHO IS PART OF THE SETTLEMENT

### 5. How does a financial institution know if it is part of the settlement?

Your financial institution is a member of the Settlement Class and affected by the Settlement if:

- It is a financial institution, bank, credit union, or other entity in the United States (including its Territories and the District of Columbia); and
- It issued one or more payment card (including debit and credit cards) that was identified as having been at risk as a result of the Cyber Attack in an alert or similar document by Visa, MasterCard, Discover, or JCB, including:
  - (i) in an alert in the Visa US-2016-0665 series (e.g., US-2016-0665a-PA, US-2016-0665b-PA, US-2016-0665c-PA, US-2016-0665d-PA, US-2016-0665e-IC, US-2016-0665f-IC, US-2016-0665g-IC, US-2016-0665h-IC);
  - (ii) in an alert in the MasterCard ADC001253-16 series; (iii) in an alert in the Discover DCA-USA-2016-6710 series; or (iv) in an alert or similar document by JCB similar to the foregoing Visa and MasterCard alerts.

Specifically *excluded* from the Settlement Class is the judge presiding over this matter and any members of his judicial staff, Eddie Bauer, and persons who timely and validly request exclusion from the Settlement Class.

## 6. Are there exceptions to being included?

If your financial institution excludes itself from the Settlement, it is no longer part of the Settlement Class and will no longer be eligible to receive any of the Settlement benefits. This process of excluding your financial institution is also referred to as “opting out” of the Settlement.

## 7. I am still not sure if my financial institution is included.

If you are still not sure whether your financial institution is included, you can ask for free help. You can call 888-335-2947 or visit [www.EddieBauerDataBreachSettlement.com](http://www.EddieBauerDataBreachSettlement.com) for more information. Or you can fill out and return the Claim Form described in Question 10, to see if you qualify.

## THE SETTLEMENT BENEFITS

### 8. What does the settlement provide?

Eddie Bauer has agreed to pay, on a claims-made basis, at least \$1,000,000, and up to \$2,800,000, into an Escrow Account out of which the Settlement Administrator will make payments to eligible Settlement Class Members. A Settlement Class Member who submits a valid claim will receive \$2.00 for each eligible payment card it issued, subject to a *pro rata* increase if the total value of eligible claims submitted is less than \$1,000,000. In addition, Eddie Bauer has agreed to continue to maintain compliance with the Payment Card Industry Data Security Standards, for which Eddie Bauer has expended, and expects to expend, approximately \$5,000,000. Eddie Bauer also has agreed to pay up to an additional \$2,000,000 to cover the Costs of Settlement Administration, which may include any attorneys’ fees, costs, and expenses and Service Award payments that are approved by the Court.

### 9. How much will my financial institution’s payment be?

If your financial institution is eligible to participate in the Settlement and does not “opt-out” of the Settlement, it may be eligible for benefits under the Settlement. If your financial institution issued any payment cards (including debit and credit cards) that were identified as having been at risk as a result of the Cyber Attack in an alert (or similar document) by Visa, MasterCard, Discover, or JCB, it may be eligible for a payment from the Escrow Fund. Eddie Bauer has agreed to pay, on a claims-made basis, at least \$1,000,000, and up to \$2,800,000, into an Escrow Account out of which the Settlement Administrator will make payments to eligible Settlement Class Members.

All Settlement Class Members who file a valid claim are eligible to receive a cash payment from the Settlement Fund per each payment card (including debit and credit cards) that was identified as having been at risk as a result of the Cyber Attack in an alert (or similar document) by Visa, MasterCard, Discover, or JCB. You are not required to submit any documentation or evidence of your financial institution’s losses to receive a payment. A Settlement Class Member, who submits a valid claim, will receive \$2.00 for each eligible payment card it issued, subject to a *pro rata* increase if the total value of eligible claims submitted is less than \$1,000,000.

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

### 10. How can my financial institution get payment?

To qualify for a payment, you must validly complete and submit a Claim Form, which is included with this notice. You may also get this Claim Form on the internet at [www.EddieBauerDataBreachSettlement.com](http://www.EddieBauerDataBreachSettlement.com). All Settlement Class Members that wish to obtain compensation must complete and submit the Claim Form. No documentation of losses is required.

To properly complete and timely submit a Claim Form, you should read the instructions carefully, include all information required by the Claim Form, sign it, and either submit the signed Claim Form electronically through [www.EddieBauerDataBreachSettlement.com](http://www.EddieBauerDataBreachSettlement.com) by **October 10, 2019**, or mail it to the Settlement Administrator postmarked no later than **October 10, 2019**, at the following address:

Eddie Bauer Data Breach Settlement  
c/o Analytics Consulting LLC, Settlement Administrator  
P.O. Box 2005  
Chanhassen, MN 55317-2005

The Settlement Administrator will review your claim to determine the amount of your financial institution's payment.

### 11. When would my financial institution get its payment?

The Court will hold a hearing on October 25, 2019 to decide whether to approve the Settlement. If the Court approves the Settlement, there may be appeals. It is always uncertain whether these appeals can be resolved and resolving them takes time, perhaps more than a year. Payments to Settlement Class Members will be made after the Settlement is finally approved and any appeals, or other required proceedings, have been completed, as set forth in the Settlement. You may visit [www.EddieBauerDataBreachSettlement.com](http://www.EddieBauerDataBreachSettlement.com) for updates on the progress of the Settlement. Please be patient.

### 12. What is my financial institution giving up to get a payment or remain in the Settlement Class?

Unless you exclude your financial institution from the Settlement, your financial institution cannot sue, or be part of any other lawsuit against, Eddie Bauer or Defendant's Released Persons (as defined in the Settlement) relating to the Cyber Attack. The specific claims your financial institution is giving up against Eddie Bauer are described in the Settlement. The terms of the release are described in §IX of the Settlement. Read it carefully. The Settlement is available at [www.EddieBauerDataBreachSettlement.com](http://www.EddieBauerDataBreachSettlement.com).

If you have any questions, you can talk to the law firms listed in Question 16 for free, or you can, of course, talk to your own lawyer if you have questions about what this means.

If your financial institution wants to keep its rights to sue Eddie Bauer based on claims this Settlement resolves, your financial institution must take steps to exclude itself from the Settlement Class (*see* Questions 13-15).

## EXCLUDING YOUR FINANCIAL INSTITUTION FROM THE SETTLEMENT

### 13. How can my financial institution opt out of the settlement?

To exclude your financial institution from the Settlement, or "opt out," you must send a letter by U.S. mail that includes the information in the bullet points below. If you fail to include this information, the notice of exclusion will be ineffective and the Settlement Class Member will be bound by the Settlement, including all releases.

- The name of this Litigation: *Veridian Credit Union v. Eddie Bauer LLC*, No. 2:17-cv-00356 (W.D. Wash.);
- Your financial institution's full name, address, and phone number;
- The words "Request for Exclusion" at the top of the document, or a statement in the body of the document requesting exclusion from the Settlement Class;
- The name, address, email address, telephone number, position, and signature of the individual who is acting on behalf of the Settlement Class Member; and
- The total number of payment cards issued by your financial institution that were identified as having been at risk as a result of the Cyber Attack in any alerts (or similar documents) by Visa, MasterCard, Discover, and JCB.

You must mail via first class postage prepaid U.S. mail the completed, above-described letter, postmarked no later than **September 10, 2019**, to each of the following addresses:

<b>Settlement Administrator</b>	<b>Settlement Class Counsel</b>	<b>Defense Counsel</b>
Eddie Bauer Data Breach Settlement c/o Analytics Consulting LLC Settlement Administrator P.O. Box 2005 Chanhassen, MN 55317-2005	Joseph P. Guglielmo SCOTT+SCOTT ATTORNEYS AT LAW LLP 230 Park Avenue, 17th Floor New York, NY 10169	Sean B. Hoar LEWIS BRISBOIS BISGAARD & SMITH LLP 888 SW Fifth Avenue, Suite 900 Portland, OR 97204-2025

If you ask to be excluded, your financial institution will not get any payment as part of this Settlement, and you cannot object to this Settlement. Your financial institution will not be legally bound by anything that happens in the Settlement and related proceedings. Your financial institution may be able to sue (or continue to sue) Eddie Bauer in the future. If you object to the Settlement and seek to exclude your financial institution, you will be deemed to have excluded your financial institution.



**14. If my financial institution doesn't opt out, can it sue Eddie Bauer for the same thing later?**

No. Unless you exclude your financial institution from the Settlement, your financial institution gives up any right to sue Eddie Bauer (as further detailed in the Settlement) for the claims that this Settlement resolves. If you have a pending lawsuit, speak to your lawyer in that case immediately. Your financial institution must exclude itself from this Settlement to continue its own lawsuit. Remember, the exclusion deadline is **September 10, 2019**.

**15. If my financial institution excludes itself, can it get money from this Settlement?**

No. If you exclude your financial institution, do not send in a Claim Form asking for a payment.

**THE LAWYERS AND FINANCIAL INSTITUTIONS REPRESENTING YOU**

**16. Does my financial institution have a lawyer in the case?**

Yes. The Court appointed the following law firms to represent your financial institution and other members of the Settlement Class: Carlson Lynch LLP, in Pittsburgh, Pennsylvania; and Scott+Scott Attorneys at Law LLP, in New York, New York. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

**17. How will the lawyers and financial institutions representing the Settlement Class be paid?**

The law firms representing Plaintiff and the Settlement Class have not yet received any payment to compensate them for the time and expenses and financial risk that they undertook when they agreed to represent Plaintiff on a contingent basis, which means that they would receive a fee only if the lawsuit was successful. The lawyers intend to ask the Court to approve an award of up to \$2,000,000 to cover: (i) the Costs of Settlement Administration; (ii) reasonable attorneys' fees, costs, and expenses; and (iii) a service award of up to \$10,000 to the Settlement Class Representative for the efforts that it has expended on behalf of the Settlement Class (the "Administration and Fee Amount").

Eddie Bauer has agreed not to object to the lawyers' motion to the Court to seek an Administration and Fee Amount of up to \$2,000,000, and Eddie Bauer will pay any Court-approved Administration and Fee Amount in addition to any cash distributions that are made to Settlement Class Members.

The Court will determine whether to approve the amount of fees and expenses requested by Plaintiff's lawyers and the proposed Service Award to the Settlement Class Representative at the Final Approval Hearing scheduled for October 25, 2019. Plaintiff's lawyers will file an application for fees, costs, and expenses and a service award no later than September 20, 2019. The application will be available on the Settlement Website ([www.EddieBauerDataBreachSettlement.com](http://www.EddieBauerDataBreachSettlement.com)) or you can request a copy by contacting the Settlement Administrator (*see* Question 23).

**OBJECTING TO THE SETTLEMENT**

**18. How does my financial institution tell the Court that it does not like the Settlement?**

If your financial institution is a Settlement Class Member, you can object to the Settlement if you do not think it is fair, reasonable, or adequate. You can give reasons why you think the Court should not approve it. The Court will consider your views. If you object to the Settlement and seek to exclude your financial institution, your financial institution will be deemed to have excluded itself.

Your objection must be in writing, shall not exceed 12 pages, and must include:

- The name of this Litigation: *Veridian Credit Union v. Eddie Bauer LLC*, No. 2:17-cv-00356 (W.D. Wash.);
- Your financial institution's full name and the full name, address, email address, and telephone number of the person acting on its behalf;
- An explanation of the basis for why your financial institution is a Settlement Class Member;
- Whether the objection applies only to your financial institution, a specific subset of the Settlement Class, or the entire Settlement Class;
- All grounds for the objection stated, with specificity, accompanied by any legal support for the objection;

- A description of all evidence to be presented at the Final Approval Hearing in support of the objection, including a list of any witnesses, a summary of the expected testimony from each witness, and a copy of any documents or other non-oral material to be presented;
- **All other information specified in the Preliminary Approval Order** (available on the settlement website at [www.EddieBauerDataBreachSettlement.com](http://www.EddieBauerDataBreachSettlement.com)), including, but not limited to, information relating to any objections you or your counsel have filed in other class action litigation; and
- Your signature on the written objection.

Any objection must be either filed electronically with the Court or mailed to the Clerk of the Court, Class Counsel, and Eddie Bauer’s counsel at the addresses set forth below. The objection must be electronically filed or, if mailed, postmarked no later than **October 4, 2019**.

<b>Court</b>	<b>Settlement Class Counsel</b>	<b>Defense Counsel</b>
Clerk of the Court U.S.D.C, Western District of Washington United States Courthouse 700 Stewart Street Seattle, WA 98101	Gary F. Lynch CARLSON LYNCH LLP 1133 Penn Avenue, 5th Floor Pittsburgh, PA 15222  Joseph P. Guglielmo SCOTT+SCOTT ATTORNEYS AT LAW LLP 230 Park Avenue, 17th Floor New York, NY 10169	Sean B. Hoar LEWIS BRISBOIS BISGAARD & SMITH LLP 888 SW Fifth Avenue, Suite 900 Portland, OR 97204-2025

In addition, any Settlement Class Member that objects to the proposed Settlement must make itself available to be deposed regarding the grounds for its objection and must provide, along with its objection, the dates when the objector will be available to be deposed during the period from when the objection is filed through the date seven days before the Final Approval Hearing.

**19. What is the difference between objecting and excluding/opting out?**

Objecting is simply telling the Court that you don’t like something about the Settlement. You can object to the benefits provided by the Settlement or other terms of the Settlement only if your financial institution stays in the Settlement Class. Excluding your financial institution or “opting-out” is telling the Court that you don’t want to be included in the Settlement Class. If your financial institution excludes itself, you have no basis to object to the Settlement and related releases because the Settlement no longer affects you.

**THE COURT’S FINAL APPROVAL HEARING**

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

The Court will hold a Final Approval Hearing on October 25, 2019 at 9:00 a.m., in Courtroom Suite 14106 before U.S. District Judge James L. Robart of the U.S. District Court for the Western District of Washington, United States Courthouse, 700 Stewart Street, Seattle, Washington 98101. This hearing date and time may be moved. Please refer to the settlement website ([www.EddieBauerDataBreachSettlement.com](http://www.EddieBauerDataBreachSettlement.com)) for notice of any changes.

By no later than September 20, 2019, Class Counsel shall file a motion for final approval of the Settlement and a motion for attorneys’ fees, costs, and expenses and a service award. The deadline to file an objection and any response to Class Counsel’s motions is no later than October 4, 2019. By no later than October 18, 2019, responses shall be filed, if any, to any filings by objectors, and any replies in support of final approval of the Settlement and/or Class Counsel’s application for attorneys’ fees, costs, and expenses and a service award shall be filed.

At the Final Approval Hearing, the Court will consider, among other things, whether the Settlement is fair, reasonable, and adequate; how much Plaintiff’s lawyers will receive for attorneys’ fees and expenses; and whether to approve a service award to the Settlement Class Representative. If there are objections, the Court will consider them. The Court will listen to people at the hearing who file in advance a timely notice of their intention to appear (*see* Question 18). At

or after the Final Approval Hearing, the Court will decide whether to approve the Settlement. There is no deadline by which the Court must make its decision.

### **21. Does my financial institution have to attend the hearing?**

No. Class Counsel will answer questions the Court may have. You are welcome, however, to come at your own expense. If you submit an objection, you do not have to come to the Court to talk about it. As long as you submitted your objection timely and in accordance with the requirements for objecting, as outlined in the Settlement (see Question 18), the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

### **IF YOU DO NOTHING**

### **22. What happens if my financial institution does nothing at all?**

If your financial institution is a Settlement Class Member and does nothing, it will remain a part of the Settlement Class, but will not get any payments from the Settlement. And, unless your financial institution excludes itself, it will not be able to sue Eddie Bauer about the claims being resolved through this Settlement ever again. See the Settlement for more details about the releases (available at ([www.EddieBauerDataBreachSettlement.com](http://www.EddieBauerDataBreachSettlement.com))).

### **GETTING MORE INFORMATION**

### **23. How do I get more information?**

This notice summarizes the Settlement. More details are in the Settlement itself. You can get a copy of the Settlement at ([www.EddieBauerDataBreachSettlement.com](http://www.EddieBauerDataBreachSettlement.com)) or from the Settlement Administrator by calling toll-free 888-335-2947.

*Please do not contact the Court with questions about the Settlement.*