



ANNEXURE A – SETTLEMENT NOTICE

FEDERAL COURT OF AUSTRALIA

**NOTICE AS TO PROPOSED SETTLEMENT OF THE TYRO
PAYMENTS LTD CLASS ACTION**

IMPORTANT INFORMATION:

This is being sent to you because it is likely you are a Group Member in the Class Action against Tyro Payments Limited (ACN 103 575 042) (**Tyro**). The class action (**Tyro Class Action**) relates to an outage to Tyro’s EFTPOS facility in January 2021 (the **Outage**).

The solicitors acting for the Applicant, Spozac Pty Limited as trustee for the LDB Family Trust t/as Not Just Cakes (ACN 112 100 231) (**Applicant**) are Bannister Law Class Actions (**BLCA**). A company called CHC Investment Fund Pty Ltd as trustee for the CHC Investment Fund Unit Trust (ACN 643 822 799) (**CHC**) has funded the case.

As you may have heard or read, terms to settle the Tyro Class Action have been agreed between the Applicant and Tyro. However, because this is a class action, a judge of the Federal Court must decide whether it is a fair and reasonable settlement for the group members. That judge will have a hearing to decide whether the settlement is fair and reasonable and whether to approve the settlement at **9.30 am on 19 May 2023**.

This notice is approved by the Court and explains some things about the settlement to allow you to work out whether you agree or disagree with it. If you have any questions in relation to the information below, **contact BLCA**. Contact details that you can use to obtain further information can be found in Section F below under the heading “*Where can you get further information?*”

A. WHAT IS THE SETTLEMENT?

1. Under the proposed settlement of the Tyro Class Action:

- (a) Tyro will pay \$5 million (without admitting liability) to settle all claims made by group members in the Tyro Class Action for compensation for loss or damage suffered due to the Outage;
- (b) the Applicant intends to apply to the Court for an order which, if made, has the effect of providing that any group member:
 - (i) who had not opted out of this proceeding by 30 October 2022;
 - (ii) had not registered with BLCA to participate in the settlement in accordance with the Court’s orders made on 22 July 2022; or
 - (iii) was not a “Late Registrant” (being a group member who registered between 31 October and 1 December 2022),



will remain a group member for all purposes of this proceeding, but shall not, without leave of the Court, be permitted to seek any benefit pursuant to the settlement (subject to Court approval).

- (c) before any of the settlement sum goes to the group members, CHC will seek orders from the Court for:
 - (i) reimbursement of approximately \$1.975 million for the costs and expenses that CHC has incurred and is estimated to incur in funding the Tyro Class Action, primarily comprised of fees paid to the solicitors, barristers and expert witnesses that were involved in the case (which will be reimbursed to CHC); and
 - (ii) payment of \$1 million (being 20% of \$5 million) to CHC as compensation for its role in funding the litigation, if the Court approves that amount being paid to CHC.
 - (d) before any of the settlement sum goes to the Group Members, the Applicant will also seek orders that there be payment of:
 - (i) \$25,000 to the Settlement Administrators for their estimated costs incurred in administering the settlement distribution; and
 - (ii) \$20,000 to the Applicant for its time and expense in representing group members.
 - (e) what is left (which is estimated by the applicant's lawyers to be about \$2 million) is to be paid to Group Members, according to a formula.
2. Whether the above payments will be paid and their amount are subject to the Court's approval. At the hearing on 19 May 2023, the Court will hear argument about whether it has the power to approve the compensation payment sought by CHC and if so, the amount that should be approved in the Court's discretion. It will also hear argument about the amount of reimbursement sought by CHC for costs and expenses.

B. ARE YOU ELIGIBLE TO PARTICIPATE IN THE SETTLEMENT?

3. This notice is being sent to all persons whom the Applicant's and Respondent's solicitors can identify who may be Group Members and who have not opted out of the Tyro Class Action. If you have validly opted out of the Tyro Class Action (that is, by filing an Opt Out Notice before 30 October 2022, unless the Court orders otherwise), this Notice has been sent to you by mistake. **You are not eligible to participate in the settlement and may disregard this notice.**
4. You are a Group Member if:
- (a) you have signed Tyro service agreements with Tyro;
 - (b) you were a customer of Tyro as at 5 January 2021;
 - (c) you have suffered loss or damage due to the Outage; and



- (d) you were not and are not a director, officer or close associate of Tyro, or a judge or a judicial registrar of the Federal Court of Australia.
5. However, the Applicant intends to seek an order from the Court at the hearing on 19 May 2023 that only those Group Members who registered their claims with BLCA on or before 30 October 2022 (or who were “Late Registrants”, meaning that they registered their claim with BLCA in the period between 30 October 2022 and 1 December 2022) will be entitled to participate in the settlement and receive a share of the amount to be distributed to Group Members. If you did not register your claim, and such an order is made, **you will not be eligible to participate in the settlement unless the Court grants you leave to participate.**
6. If you are unsure whether you are a Group Member, or if you did not register your claims with BLCA before 30 October 2022 or between 30 October 2022 and 1 December 2022 and wish to seek the Court’s leave to participate in the settlement, please make contact with BLCA using the details at the end of this notice, or seek legal advice. You should not contact Tyro directly.

C. HOW MUCH WILL YOU RECEIVE UNDER THE SETTLEMENT?

7. If the settlement is approved on the basis of the proposed Settlement Distribution Scheme, you will receive an amount representing your pro rata entitlement to the settlement calculated in accordance with a formula which will be published on the Tyro Class Action website www.tyroclassaction.com.au by 28 April 2023.
8. The precise amount that will be payable to each individual group member is not yet known and cannot yet be accurately estimated. Among other things, it will be affected by a number of factors, including:
- (a) the amount of any funding commission approved by the Court;
 - (b) the amount of the applicant's legal costs and disbursements approved by the Court (and the amount to be reimbursed to CHC);
 - (c) the amount of the costs of the Settlement Administrators; and
 - (d) the formula approved by the Court to determine the distribution to each group member (which may be affected by whether you participated in Tyro’s Remediation Program and received compensation through that program and whether you provided information supporting your claims upon registering with BLCA).
9. If the settlement is approved, and you registered to participate in the settlement, you will be sent another Notice by BLCA and invited to provide additional information, such as bank account details, to facilitate distribution of your share of the settlement sum. An estimate of the likely range of settlement payments will be sent to you in that Notice.
10. If the Court approves the settlement, you will be bound by the settlement (whether or not you registered with BLCA to participate in the settlement) and will no longer have the right to pursue any claims against Tyro of the kind made in the Tyro Class Action.



11. Please note:

- (a) Group Members will not receive the full value of their claims under the settlement (as it is a compromise, and has to take into account the risk that the Applicant might not succeed, as well as the benefit to Group Members in receiving money now, rather than later); and
- (b) as to legal costs, the Applicant has engaged an expert costs assessor who will review the legal costs incurred and report to the Court on whether those costs are fair and reasonable.

D. YOUR OPTIONS

If you SUPPORT the proposed settlement	You do not have to do anything. If you registered with BLCA before 30 October 2022 or in the period between 30 October 2022 and 1 December 2022 (or otherwise obtain leave to participate in the settlement), you will receive your share of the settlement once it has been finally calculated and you have provided your bank account details to BLCA.
If you DISAGREE WITH the proposed settlement (or any aspect of how it is proposed to be distributed, including the amounts to be paid to CHC, or the orders proposed to be made that the settlement only be distributed to registered Group Members)	<p><u>You should tell the Judge and the parties why.</u></p> <p>This is best done by sending written material for the Court to consider well before the hearing. This should be done by sending the Notice of Objection to tyro@bl.com.au, which you should do no later than 5 May 2023.</p> <p>You can also tell the Court your concerns at the hearing. Arrangements will be made to allow you to do this if you want. The hearing may not happen in a court room, but may be conducted by videoconference and/or telephone. If you want to speak to the judge about the settlement at the hearing this can be arranged by you sending an email to nswdr@fedcourt.gov.au.</p> <p><u>Please note:</u> even if you object, you will still receive money from the settlement if it goes ahead, you are a eligible to do so, and you registered to participate in the settlement (or obtain leave to participate).</p>

E. WHERE CAN YOU GET FURTHER INFORMATION?

- 12. If you want any more information or documents, you should download documents from www.tyroclassaction.com.au. The documents available on this website include the Applicant's Statement of Claim, which contains detailed allegations made by the Applicant in the Tyro Class Action. You should not contact the Court or Tyro for any general enquiries about the Tyro Class Action or settlement.
- 13. You can also request information from tyro@bl.com.au or by calling Bannister Law Class Actions on (02) 8915 6213.
- 14. The Settlement Distribution Scheme, which includes details of the formula which will determine how group members' entitlements will be calculated, will be published at www.tyroclassaction.com.au no later than 28 April 2023.



15. Please consider the above matters carefully. If there is anything of which you are unsure, you should contact Bannister Law Class Actions or seek your own legal advice. We cannot provide you with a precise estimate of the amount payable to you at this stage, so please do not contact us to request this information.



Notice of Objection to Proposed Settlement of the Tyro Class Action

IMPORTANT: By returning this form, you are giving notice that you object to the proposed settlement of the Tyro Class-Action. If you object to the proposed settlement of the Tyro Class-Action, you must complete the form and send it together with your written reasons for objecting to the proposed settlement to tyro@bl.com.au by no later than **5 May 2023**.

	QUESTION	YOUR ANSWER
1.	Name of Group Member:	
2.	Name of person completing this form (which may be the same as (1) above):	
3.	Authority of person completing this form (EG: Group Member, solicitor for Group Member, director of Group Member if a company):	
4.	Telephone Number	
5.	Postal Address:	
6.	Email Address:	
7.	Reason for objection to proposed settlement:	<p><i>If you require more room to explain the reasons for your objection, you can attach further pages to this notice.</i></p>

Date: _____

Signature: _____



Name: _____



ANNEXURE B – SETTLEMENT ADVERTISEMENT

NOTICE OF PROPOSED SETTLEMENT OF THE TYRO CLASS ACTION

The Tyro Class Action has settled for an amount of \$5 million, subject to Court approval.

The action relates to an outage to Tyro's EFTPOS facility in January 2021 (the **Outage**). **If you were a customer of Tyro as at 5 January 2021, had signed a Tyro Service Agreement with Tyro and suffered loss or damage as a result of the Outage, you may be a group member and may be eligible for a settlement payment.**

The proposed settlement will only take effect if it is approved by the Federal Court of Australia. A hearing will take place in the Federal Court at **9.30 am on 19 May 2023**.

At the hearing, the Court will also hear argument about and determine whether the litigation funder which supported the class action should receive reimbursement of its costs and expenses and compensation for having provided that support, and, if so, what should be the amount of that compensation. The funder is seeking:

- (a) an amount of \$1 million, which is 20% percent of the \$5 million settlement amount; and
- (b) the reimbursement of an estimated amount of \$2 million in costs and expenses that the funder has incurred and is estimated to incur in funding the class action and the distribution of the settlement sum.

If approved by the Court, the Settlement Distribution Scheme will provide for a deduction in the compensation amount of approximately \$3 million or such other lesser amount as is approved by the court. The settlement is not conditional on an amount being paid to the litigation funder.

At the hearing, the Court will also be asked to make an order which, if made, would have the effect of providing that any Group Member:

- (a) who has not opted out of this proceeding by 30 October 2022;
- (b) has not registered with Bannister Law Class Actions (**BLCA**) to participate in the settlement in accordance with the Court's orders made on 22 July 2022; or
- (c) was not a "Late Registrant" (being a group member who registered between 31 October and 1 December 2022),

will remain a Group Member for all purposes of this proceeding, but shall not, without leave of the Court, be permitted to seek any benefit pursuant to the settlement. This means that, if you did not register your claim with BLCA, and this order is made, **you will not be eligible to participate in the settlement unless the Court grants you leave to participate.**

Whether you registered with BLCA or not, if the Court approves the settlement, you will be bound by the Court's orders and will no longer have the right to pursue any claims against Tyro of the kind made in the Tyro Class Action.

If you have no objection to the proposed settlement, you do not need to do anything. If you registered with BLCA before 30 October 2022 or in the period between 30 October 2022 and 1 December 2022 (or otherwise obtain leave to participate in the settlement), you will receive your share of the settlement once it has been finally calculated and you have provided your bank account details to BLCA.



If you wish to object to the proposed settlement (or any of the orders proposed, including for reimbursement or payment to the litigation funder and solicitors or to limit distribution of the settlement amount only to those who registered), you must send a Notice of Objection by no later than **5 May 2023**. The Notice of Objection Form is attached to the Settlement Notice which can be obtained from www.tyroclassaction.com.au. You should read the Settlement Notice carefully as it provides further details about the proposed settlement and how it may affect your rights.

For more information, you can visit www.tyroclassaction.com.au. You can also email tyro@bl.com.au or call (02) 8915 6213.

Do not contact the Federal Court with queries about the Tyro Payments Class Action. You should contact BLCA via one of the contact methods set out above.